

DAVID GREGORY SMITH

<p style="text-align: right;">Page 1</p> <p style="text-align: center;">IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF MONTANA BUTTE DIVISION</p> <hr/> <p>JOHN MEYER, Plaintiff, vs. Cause No. 18-CV-00002-BMM BIG SKY RESORT, Defendant.</p> <hr/> <p style="text-align: center;">VIDEOCONFERENCE DEPOSITION UPON ORAL EXAMINATION OF DAVID GREGORY SMITH</p> <hr/> <p>BE IT REMEMBERED, that the videoconference deposition upon oral examination of DAVID GREGORY SMITH, appearing at the instance of Defendant, was taken via zoom through the offices of Crowley Fleck, PLLP, 1915 South 19th Avenue, Bozeman, Montana, 59718 on the 11th day of August 2020, beginning at the hour of 8:59 a.m. pursuant to the Federal Rules of Civil Procedure, before Marla Jeske, Court Reporter - Notary Public, CSR.</p>	<p style="text-align: right;">Page 3</p> <p style="text-align: center;">I N D E X</p> <p>EXAMINATION OF DAVID GREGORY SMITH BY PAGE Mr. Ian McIntosh, Esq.....4, 102 Ms. Breean Walas, Esq.....99, 103 DEPOSITION EXHIBITS: Exhibit 97 Dr. Gregory Smith's Treatment notes of John Meyer.....6-7, 11, 16, 56, 88</p>
<p style="text-align: right;">Page 2</p> <p>1 APPEARANCES 2 3 ATTORNEY APPEARING ON BEHALF OF THE 4 PLAINTIFF, JOHN MEYER: 5 Ms. Breean Walas, Esq. 6 Walas Law Firm 7 P.O. Box 4591 8 Bozeman, Montana 59772 9 breean@walaslawfirm.com 10 (501) 246-1067 11 12 ATTORNEY APPEARING ON BEHALF OF THE 13 DEFENDANT, BIG SKY RESORT: 14 Mr. Ian McIntosh, Esq. 15 CROWLEY FLECK PLLP 16 1915 South 19th Avenue 17 P.O. Box 10969 18 Bozeman, MT 59719-0969 19 imcintosh@crowleyfleck.com 20 (406) 556-1430 21 22 23 24 25</p>	<p style="text-align: right;">Page 4</p> <p>1 WHEREUPON, the following proceedings were had 2 and testimony taken, to-wit: 3 4 * * * * * 5 6 DAVID GREGORY SMITH, 7 called as a witness herein, having been first duly 8 sworn, was examined and testified as follows: 9 10 EXAMINATION 11 BY MR. McINTOSH: 12 Q. Can you please state your name. 13 A. David Gregory Smith. 14 Q. And, Mr. Smith, what is your address? 15 A. 1145 Meagher Avenue, Bozeman, Montana, 16 59718. 17 Q. And is that where you are located right 18 now? 19 A. Yes. 20 Q. And is that your home address or your 21 business address? 22 A. My home address. 23 Q. Is anyone there with you today? 24 A. I have two dogs, and I have a husband in 25 the other office.</p>

1 (Pages 1 to 4)

<p style="text-align: right;">Page 5</p> <p>1 Q. Okay. No one with you in the same room 2 though? 3 A. No, I'm all alone. Well, except my dog 4 Phyllis is sitting here on the couch. 5 Q. And -- 6 A. She may bark, so I apologize in advance. 7 Q. Not a problem. 8 Are you aware that this case is set for 9 a trial in Butte, Montana in October? 10 A. I am. 11 Q. And if the trial goes forward in Butte 12 in October, will you appear in person to testify? 13 A. I'd be -- well, I think I would, if 14 we're okay with COVID. I have an immune disease, 15 so I'm worried about that a bit. I've been doing 16 all my work remotely with my patients. So I guess 17 I would just have to see how comfortable I am with 18 the numbers at that time. 19 Q. And your immune disease, is that the 20 reason you asked to conduct this deposition today 21 by Zoom instead of in person? 22 A. Yes. 23 Q. Did you meet with either Ms. Walas or 24 Mr. Meyer to prepare for your deposition? 25 A. No. I just met with Mr. Meyer as a</p>	<p style="text-align: right;">Page 7</p> <p>1 like those are the last notes. 2 Q. And Exhibit 97, is that all of your 3 treatment notes or your counseling notes regarding 4 your counseling of Mr. Meyer? 5 A. Yes. 6 Q. Thank you. 7 A. I don't tend to write a lot down. 8 Q. I noticed that. 9 A. I have a pretty good memory. And since 10 he's paying out of pocket, it's not -- I'm not 11 necessarily constrained by insurance company's 12 requirements about notes. 13 Q. Before we get into the Exhibit 97 in 14 more detail, let me ask you some just backup 15 questions. Have you ever had your deposition taken 16 before? 17 A. Yes. One previous time in a sexual 18 abuse case. 19 Q. When was that? 20 A. I don't have that file in front of me. 21 That's a former client. It's been at least two 22 years, probably three. 23 Q. Do you know who took your deposition? 24 A. I don't remember. I have all that in a 25 file, but I don't have that particular file in</p>
<p style="text-align: right;">Page 6</p> <p>1 patient, as I have been. 2 Q. What do you have with you related to 3 either this lawsuit or your treatment of Mr. Meyer 4 right now? 5 A. I have my case notes and I have the 6 exhibits that were sent to me a few minutes ago. I 7 have additional notes. I think those notes that 8 were attached are only until May, it looks like. 9 Let me just take a look. 10 Q. Yes, Mr. Smith, that was our error. A 11 replacement exhibit -- 12 A. Oh, okay. 13 Q. -- with a third page should have been 14 sent to you. Do you have that now? 15 A. I do have that now, yes. Thank you. 16 Q. Okay. So we are going to mark what has 17 been previously labeled as G.Smith012 through 18 G.Smith014 as Exhibit 97. 19 (Whereupon, Deposition 20 Exhibit Number 97 was 21 marked for identification.) 22 BY MR. McINTOSH: 23 Q. And do you have what I've now referenced 24 as Exhibit 97 with you, Mr. Smith? 25 A. Yes. Notes through June 22nd. Looks</p>	<p style="text-align: right;">Page 8</p> <p>1 front of me right now. 2 Q. Do you recall the names of any of the 3 attorneys that were involved in that case? 4 A. It's actually online. I can look it up 5 if you want. 6 Q. Sure. 7 A. Let's see if I can. Sorry for the wait. 8 That's not it. I am in contact with that former 9 client, so I can text and ask, if that's something 10 that's really important. 11 Q. I would just -- yeah, I'd like to 12 know -- if you've been deposed before, I'd like to 13 know who the -- who the attorneys are and if you 14 can -- if you have that information readily 15 available to you. 16 You said that was a sexual abuse case. 17 Can you -- is that the case involving the Helena 18 Catholic Diocese? 19 A. No, it was not. It was involving a 20 teacher in California. 21 Q. Oh. 22 A. My patient was a resident in Bozeman at 23 the time. 24 Q. And is that the only time you have ever 25 testified, either in a deposition or in court?</p>

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1 A. Yes. I have never testified in court.

2 **Q. And you said you had your deposition**
3 **taken two to three years ago?**

4 A. Yeah.

5 **Q. What happened with that case, if you**
6 **know?**

7 A. The case was settled for -- I don't know
8 the amount. It was an undisclosed amount. My
9 fees --

10 **Q. I don't need to know the amount.**

11 A. -- were potentially paid by
12 the -- what's that?

13 **Q. I don't need to know the amount of the**
14 **settlement.**

15 A. Okay, sure.

16 **Q. Just to make sure we're on the same**
17 **page, I want to just go through the rules of a**
18 **deposition.**

19 First of all, we need to talk one at a
20 time so that the court reporter can take down all
21 of our words. And it's especially, of course,
22 important here today when we're talking by video.
23 And I will apologize in advance, I'm certain
24 there's going to be times today when you are
25 answering a question and I might not know that

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1 **that you do not understand the question?**

2 A. Absolutely.

3 **Q. And will you agree not to answer**
4 **questions that you do not understand?**

5 A. I do.

6 **Q. Thank you.**

7 **Do you have any reason to believe that**
8 **you can't give accurate and truthful testimony**
9 **today?**

10 A. Nope. I do not.

11 **Q. Tell me what you did to prepare for this**
12 **deposition, if anything.**

13 A. I reviewed case notes and diagnostics
14 just to make sure that everything was clear and
15 accurate.

16 **Q. And the case notes that you reviewed,**
17 **are those the case notes contained in Exhibit 97?**

18 A. Yes, as well as July's case notes, which
19 I can forward if needed.

20 **Q. So just so I'm clear, so you have**
21 **additional treatment notes regarding your treatment**
22 **of Mr. Meyer that have not yet been produced?**

23 A. Yes. The last notes that you have in
24 the exhibit were from June 22nd, and my notes go up
25 to yesterday -- or we had a session yesterday.

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1 you're done, so I may interrupt you with another
2 question. If I do that and you're not done, will
3 you please just let me know and -- let me know that
4 you are not done and I will let you answer your
5 question. Does that make sense?

6 A. Okay. Absolutely.

7 **Q. We also need to -- the reverse is also**
8 **true, if you can please let me finish my question.**
9 **Even if you know exactly what I'm going to say,**
10 **please let me finish the question so we can get a**
11 **good clean record. And you understand, of course,**
12 **that the court reporter is writing down everything**
13 **that each one of us says, right?**

14 A. I do.

15 **Q. After you were deposed before, did**
16 **you -- after the deposition, did you review your**
17 **transcript to check if there were any errors?**

18 A. I did.

19 **Q. So you understand the process how that**
20 **works, right?**

21 A. Yeah, I'm a bit familiar. I'm trying to
22 remember. But, yeah, I think it's pretty
23 straightforward, from what I recall.

24 **Q. Right. And if I ask you a question that**
25 **you don't understand, will you please let me know**

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1 **Q. Okay. Can you please forward a copy of**
2 **those notes to us?**

3 A. Yes, I can.

4 **Q. Thank you.**

5 A. Let me find them. They're all still
6 part of the same document, so I think -- yes, I
7 can.

8 **Q. Who are you e-mailing those new notes**
9 **to?**

10 A. I was going to ask where you would like
11 them.

12 **Q. Did you receive the e-mail from my**
13 **assistant, Jen Rockman?**

14 A. Yes.

15 **Q. If you could just reply to that and**
16 **include the updated notes.**

17 A. Okay.

18 **Q. And have you done that, Mr. Smith?**

19 A. Getting there.

20 **Q. Thank you. Please let me know when**
21 **you've done that.**

22 A. Okay. Attached and sent.

23 **Q. Thank you, sir.**

24 A. Uh-huh.

25 **Q. And tell me, after June 22nd of 2020,**

3 (Pages 9 to 12)

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<p>1 when else have you seen Mr. Meyer?</p> <p>2 A. From my notes, it was -- I've seen him</p> <p>3 on July 6th, July 13th, July 20th, July 27th,</p> <p>4 July -- or August 7th and August 9th.</p> <p>5 Q. In your meeting with Mr. Meyer</p> <p>6 yesterday, did you discuss this deposition?</p> <p>7 A. We did not.</p> <p>8 Q. What did you discuss in your meeting</p> <p>9 with Mr. Meyer yesterday?</p> <p>10 A. It was a joint meeting with his wife</p> <p>11 about communication. And both were trying to</p> <p>12 navigate some of John's emotional difficulty</p> <p>13 with feeling like he's making progress or feeling</p> <p>14 like he's just spinning his wheels. So I was just</p> <p>15 trying to give them both some tools to communicate</p> <p>16 and to slow down so they could listen to each</p> <p>17 other, and I basically helped facilitate a</p> <p>18 conversation to help them both deal better and</p> <p>19 more -- less stressfully with their new babies and</p> <p>20 their financial issues.</p> <p>21 Q. A few minutes ago when I asked you what</p> <p>22 you had done to prepare for this deposition, you</p> <p>23 said you reviewed case notes and you also said you</p> <p>24 reviewed diagnostics; is that correct?</p> <p>25 A. I did. I reviewed the DSM diagnosis for</p>	<p>1 a -- pardon me, a test run this morning, and those</p> <p>2 were the only topics.</p> <p>3 Q. And the e-mail that you just sent to my</p> <p>4 assistant that has your additional updated</p> <p>5 treatment notes from July and August, the previous</p> <p>6 documents have been Bates Stamped. Has that</p> <p>7 additional page been Bates Stamped, to your</p> <p>8 knowledge? Do you know what I mean?</p> <p>9 A. I do not.</p> <p>10 Q. Okay. It's the number at the bottom</p> <p>11 that says G.Smith and, it says, for example on</p> <p>12 the --</p> <p>13 A. Okay.</p> <p>14 Q. So does the new page have G.Smith on the</p> <p>15 end of it, that you just e-mailed to us?</p> <p>16 A. I don't think so.</p> <p>17 Q. Okay. Well, we -- once we --</p> <p>18 A. She didn't get it. If you don't mind,</p> <p>19 one second. She's saying she can't open the</p> <p>20 attachment.</p> <p>21 Q. Okay.</p> <p>22 A. So I'm re-sending this.</p> <p>23 MS. WALAS: Ian?</p> <p>24 MR. McINTOSH: Yes.</p> <p>25 MS. WALAS: If we want to go off the record,</p>
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<p>1 post-traumatic stress disorder.</p> <p>2 Q. That is the diagnostics you were</p> <p>3 referring to?</p> <p>4 A. Yes. That's the diagnosis that I have</p> <p>5 given Mr. Meyer.</p> <p>6 Q. Did you ever meet with Ms. Walas before</p> <p>7 your deposition?</p> <p>8 A. No, I don't know who that is. Oh, I</p> <p>9 guess is that Breean?</p> <p>10 Q. Yes.</p> <p>11 A. Okay. Okay. No, we've never -- this is</p> <p>12 the first time we've spoken. I've -- we've</p> <p>13 e-mailed.</p> <p>14 Q. And how many e-mails do you have with</p> <p>15 Ms. Walas?</p> <p>16 A. Probably three or four, maybe. I don't</p> <p>17 remember. We had a few when we were gathering</p> <p>18 notes, case notes, and a couple yesterday I think.</p> <p>19 Q. And what did your e-mails with Ms. Walas</p> <p>20 yesterday discuss?</p> <p>21 A. We discussed the process, who would be</p> <p>22 sending me the link -- let me look again, and I'll</p> <p>23 remind myself what that is -- regarding the</p> <p>24 exhibits for today. That was -- that was it.</p> <p>25 And also, we were trying to figure out how to do</p>	<p>1 I had difficulty printing the notes as well from</p> <p>2 Greg. And what I ended up doing is printing it</p> <p>3 from my phone and then scanning it.</p> <p>4 MR. McINTOSH: Okay. Well, why don't we do</p> <p>5 this --</p> <p>6 THE WITNESS: I can also -- I can also</p> <p>7 take -- make the last page of the notes and put it</p> <p>8 in a body of an e-mail.</p> <p>9 MR. McINTOSH: That's fine as well.</p> <p>10 THE WITNESS: If it comes to that. Let's see</p> <p>11 if she can get this one here.</p> <p>12 MR. McINTOSH: Breean, if that doesn't work,</p> <p>13 why don't we just -- why don't we just go for a</p> <p>14 while, and I will either mark the last page of</p> <p>15 notes as a new Exhibit 98 or we can just add it on</p> <p>16 to what is Exhibit 97. But we can at least make</p> <p>17 some progress first and then look through those in</p> <p>18 a break in a little bit. Does that work?</p> <p>19 MS. WALAS: That works for me.</p> <p>20 MR. McINTOSH: Okay.</p> <p>21 BY MR. McINTOSH:</p> <p>22 Q. Okay. So, Mr. Smith, have you</p> <p>23 produced -- assuming this e-mail goes through, have</p> <p>24 you produced all of your notes regarding your</p> <p>25 counseling sessions with Mr. Meyer?</p>

<p style="text-align: right;">Page 17</p> <p>1 A. I have.</p> <p>2 Q. And do you have -- do you have any other</p> <p>3 notes -- any other documents in any form related to</p> <p>4 your counseling sessions with Mr. Meyer?</p> <p>5 A. I have an intake form, which he filled</p> <p>6 out in 2018. And I haven't needed to update that</p> <p>7 with new information since then; no medications to</p> <p>8 update, a change of address I think, and that was</p> <p>9 it.</p> <p>10 Q. Can you produce the intake form to us as</p> <p>11 well, Mr. Smith?</p> <p>12 A. So I haven't been in my office, and I'm</p> <p>13 moving files between both places. So I've kind of</p> <p>14 transitioned to electronic notes, like dictating</p> <p>15 them. So I don't have his file right here, but I</p> <p>16 can find it.</p> <p>17 Q. Okay. Will you --</p> <p>18 A. His intake file.</p> <p>19 Q. -- produce that intake form to us as</p> <p>20 soon as you can find that, please?</p> <p>21 A. Yes. And I think it's in my office, not</p> <p>22 in my home.</p> <p>23 Q. Okay.</p> <p>24 A. I would have to go there and then scan</p> <p>25 it so that I can deliver that to you.</p>	<p style="text-align: right;">Page 19</p> <p>1 Q. Would it help if I gave you the e-mail?</p> <p>2 A. I'm trying to copy it. And then when I</p> <p>3 copy it, a bunch of other stuff shows up. So I'm</p> <p>4 not sure what that means, but...</p> <p>5 Okay. I think I'm just going to have to</p> <p>6 put it in manually. Hold on.</p> <p>7 Q. Okay.</p> <p>8 A. This is why I'm not a computer person.</p> <p>9 I always have to ask my nephew for help. Could you</p> <p>10 please give me her e-mail?</p> <p>11 Q. Yes. It is jrockman, R-O-C-K-M-A-N, and</p> <p>12 that's all one word --</p> <p>13 A. I see it.</p> <p>14 Q. Okay, good.</p> <p>15 A. Got it, uh-huh. That's one. Okay.</p> <p>16 Q. And --</p> <p>17 A. Those are the only two I have in my</p> <p>18 inbox.</p> <p>19 Q. Okay. Just to make the record clear,</p> <p>20 you said that you had several e-mails with -- I</p> <p>21 believe they were joint e-mails with Ms. Walas and</p> <p>22 also with Mr. Meyer. And have you now forwarded</p> <p>23 both of those e-mails to my assistant?</p> <p>24 A. I've forwarded the ones from John. Let</p> <p>25 me do a search for the Breean e-mails. I'm trying</p>
<p style="text-align: right;">Page 18</p> <p>1 Q. Okay. And I understand that you can't</p> <p>2 do that as we sit here today, but will you do that</p> <p>3 after the deposition is complete?</p> <p>4 A. I will.</p> <p>5 Q. Thank you.</p> <p>6 So other than this intake form and other</p> <p>7 than the notes at your counseling sessions, do you</p> <p>8 have any other documents related to your counseling</p> <p>9 of Mr. Meyer?</p> <p>10 A. I do not believe so.</p> <p>11 Q. Do you have any e-mails with Mr. Meyer?</p> <p>12 A. I only have e-mails with Mr. Meyer that</p> <p>13 include Ms. Walas, I think. Let me do a search</p> <p>14 real quick. I have two.</p> <p>15 Q. And can you produce those to us as well,</p> <p>16 Mr. Smith?</p> <p>17 A. Uh-huh. One is concerning my affidavit,</p> <p>18 and forward to -- my computer has decided to act</p> <p>19 up. My apologies.</p> <p>20 Q. No problem.</p> <p>21 A. Something is happening. Sorry.</p> <p>22 Q. That's all right.</p> <p>23 A. I don't know what's happening. Hang on</p> <p>24 one second. Jennifer's e-mail is not coming up and</p> <p>25 I'm having some problems.</p>	<p style="text-align: right;">Page 20</p> <p>1 to figure out how I can send them all at once. I'm</p> <p>2 going to have to do them individually, I'm sorry.</p> <p>3 Q. And to be clear, Mr. Smith, if you're</p> <p>4 just having an e-mail about -- with Ms. Walas</p> <p>5 about, you know, logistics, in other words, you</p> <p>6 know, "Your deposition is set for 9:00 a.m., click</p> <p>7 on this Zoom link," I don't need those. But --</p> <p>8 A. Okay.</p> <p>9 Q. -- if there's anything of any substance,</p> <p>10 you know, either talking about your affidavit, your</p> <p>11 treatment of Mr. Meyer, anything along those lines.</p> <p>12 Do you have any --</p> <p>13 A. No, it's mostly -- yeah, it's mostly</p> <p>14 just scheduling and asking availability for a</p> <p>15 deposition.</p> <p>16 Q. Okay.</p> <p>17 A. And trying to coordinate this morning.</p> <p>18 Q. Okay.</p> <p>19 A. And sending notes. And I sent notes to</p> <p>20 Ms. Walas.</p> <p>21 Q. Okay. Is there any commentary included</p> <p>22 with the notes that you sent?</p> <p>23 A. Not really. Just a small "Here's the</p> <p>24 notes."</p> <p>25 Q. Okay.</p>

<p style="text-align: right;">Page 21</p> <p>1 A. Nothing of substance, really.</p> <p>2 Q. Okay. You qualified that a little bit</p> <p>3 where you said "nothing of substance, really."</p> <p>4 Does that mean there's something of substance</p> <p>5 there?</p> <p>6 A. No. I mean, I just kind of -- let me</p> <p>7 just look at them. We talked about virtual or</p> <p>8 in-person deposition. And as an immunocompromised</p> <p>9 person, I have serious misgivings about being with</p> <p>10 anyone in person, and that was fine. I didn't get</p> <p>11 a response, except it was an out-of-office reply.</p> <p>12 Q. Anything else?</p> <p>13 A. I can forward that.</p> <p>14 Q. That's okay. I don't need you to</p> <p>15 forward the out-of-office reply.</p> <p>16 A. I mean, if you want -- if you</p> <p>17 want -- yeah. I mean, it's -- it seems logistical.</p> <p>18 Q. Okay.</p> <p>19 A. I don't see any other commentary or</p> <p>20 discussion.</p> <p>21 Q. Okay. Have you had any communications</p> <p>22 with Mr. Meyer's former attorney, a woman named</p> <p>23 Ms. Nadine Nadow?</p> <p>24 A. I have not.</p> <p>25 Q. Okay. Have you had communications that</p>	<p style="text-align: right;">Page 23</p> <p>1 Q. Okay. So the only information you have</p> <p>2 about Mr. Meyer's ski wreck, about his medical</p> <p>3 treatment, about other medical diagnoses that he</p> <p>4 has received, that is just information that</p> <p>5 Mr. Meyer has provided to you?</p> <p>6 A. Yes.</p> <p>7 Q. And you have no idea if it's true or</p> <p>8 false, correct?</p> <p>9 A. Correct. I haven't corroborated, but</p> <p>10 some of the -- well, all of the information remains</p> <p>11 consistent, so I didn't have a reason to question.</p> <p>12 Q. Did you remove anything from your</p> <p>13 counseling notes relating to Mr. Meyer before</p> <p>14 producing them?</p> <p>15 A. No.</p> <p>16 Q. Okay. Before we get into the actual</p> <p>17 notes, let's talk a little bit about your</p> <p>18 background. Tell me a little bit about yourself.</p> <p>19 Where did you grow up?</p> <p>20 A. I grew up in Twin Bridges, Montana.</p> <p>21 Q. And you graduated from high school</p> <p>22 there?</p> <p>23 A. I did. I graduated from high school and</p> <p>24 I went to Carroll College in Helena.</p> <p>25 Q. And did you graduate from Carroll</p>
<p style="text-align: right;">Page 22</p> <p>1 you haven't told us about, any type of</p> <p>2 communications that you haven't told us about</p> <p>3 with -- either with Mr. Meyer or with anyone</p> <p>4 representing him?</p> <p>5 A. I don't believe so. I think that's --</p> <p>6 Q. Okay.</p> <p>7 A. -- that's pretty much it.</p> <p>8 Q. Okay. Sorry to follow up on this, but</p> <p>9 you said "that's pretty much it." Does that mean</p> <p>10 there's anything else out there that you can</p> <p>11 recall?</p> <p>12 A. It's Montana ranch-speak for "there's</p> <p>13 nothing else."</p> <p>14 Q. Okay.</p> <p>15 A. Sorry.</p> <p>16 Q. I assumed that is what it was, but had</p> <p>17 to make sure.</p> <p>18 A. No problem.</p> <p>19 Q. Have you reviewed any information about</p> <p>20 Mr. Meyer's ski wreck, for example, pictures,</p> <p>21 depositions, medical records, anything like that?</p> <p>22 A. I have not.</p> <p>23 Q. Okay.</p> <p>24 A. All of my information is based on client</p> <p>25 interview.</p>	<p style="text-align: right;">Page 24</p> <p>1 College?</p> <p>2 A. I did.</p> <p>3 Q. What year?</p> <p>4 A. 1987.</p> <p>5 Q. And what was your degree in?</p> <p>6 A. My degree was in theology and -- I</p> <p>7 double majored in theology and communications.</p> <p>8 Q. Tell me what you did after graduating</p> <p>9 from Carroll College.</p> <p>10 A. I worked for the summer and then I went</p> <p>11 to seminary in Rome, Italy.</p> <p>12 Q. What does that mean when you say you</p> <p>13 went to seminary? Is that just continuing your</p> <p>14 education?</p> <p>15 A. Yes. I was studying to be a Roman</p> <p>16 Catholic priest. And while there, I got two</p> <p>17 further degrees in theology and was ordained a</p> <p>18 priest in 1991.</p> <p>19 Q. And did you then go to work for the</p> <p>20 Catholic church in Montana?</p> <p>21 A. I did. I was assigned to the Cathedral</p> <p>22 of Saint Helena, and I was also teaching at Carroll</p> <p>23 College, teaching theology.</p> <p>24 Q. And how long did you continue in those</p> <p>25 jobs?</p>

<p style="text-align: right;">Page 25</p> <p>1 A. I was briefly the pastor of our Lady of 2 the Valley in Helena Valley for less than a year in 3 1996/97. And then I took a leave of absence after 4 some depression issues related to my sexuality, and 5 moved to Seattle and stayed with a friend for a 6 while while I got my feet and got a job. And the 7 Diocese paid for two years of counseling for me. 8 They wanted me back. I think I'm a pretty good 9 priest, but I couldn't stand any longer not being 10 able to be honest about my sexuality with people. 11 It felt like I was being an agent of my own 12 depression if I stayed, so. 13 Through that time, I had a really great 14 therapist who was also a former priest and got me 15 very interested in doing therapy and counseling as 16 a profession. And I went to Seattle University and 17 got my degree in mental health counseling in 2001, 18 and I practiced at Seattle Counseling Service from 19 2001 to 2006. 20 Q. What is Seattle Counseling Service? 21 A. Seattle Counseling Service is the oldest 22 counseling service in the United States for sexual 23 minorities, LGBTQ+ persons. 24 Q. And what degree did you receive from 25 Seattle University?</p>	<p style="text-align: right;">Page 27</p> <p>1 the past. I'm mostly interested in the experience 2 of the here and now. 3 It's primarily associated with a cycle 4 of awareness where people have an awareness of a 5 feeling, they either move to address the feeling or 6 not address the feeling. If they address the 7 feeling, that's the beginning of another cycle. 8 Where, if we say hunger -- if I notice some hunger, 9 I may not want to address the feeling right now 10 because I can't. But if I do, I go, I mobilize my 11 energy, I move towards food, I probably prepare the 12 food, I consume the food, and then I'm satisfied 13 and I move on to another sensation. 14 Q. Okay, thank you. 15 A. Uh-huh. 16 Q. Did you move back to Montana in 2006? 17 A. 2007. 18 Q. And why did you move back to Montana? 19 A. I was diagnosed with HIV and I almost 20 died. My parents wanted me home. 21 Q. Where did you move to when you moved 22 back to Montana? 23 A. I moved to Butte with my former pastor 24 who had a big house, and needed somebody to help 25 take care of him. I didn't want to move back in</p>
<p style="text-align: right;">Page 26</p> <p>1 A. Master of Arts. 2 Q. You do not have a Ph.D.? 3 A. I do not. But I've got two bachelor's 4 and two master's, so I think it kind of adds up. 5 Q. I saw in your resume or curriculum vitae 6 that was produced to us earlier in this case some 7 sort of mention of a -- I'm probably going to 8 pronounce this incorrectly -- Gestalt? 9 A. Oh, Gestalt theory. Yeah. 10 Q. Tell me what that is. 11 A. Gestalt theory is the theoretical 12 orientation that came out of -- it's kind 13 of arrived around the time of -- a little after 14 Jung and Freud. It's much more centered on the 15 whole person. It is a theoretical orientation that 16 teaches mindfulness, and based on somatic 17 experience we believe that emotions originate in 18 the body, not in the brain. And we have to do a 19 lot of somatic work, like, of the body to kind of 20 get people to have more awareness of what they're 21 really feeling and what those feelings mean. 22 And it's very present-oriented. We try 23 not to go into the past or into the future. The 24 client is expected to explain what's happening for 25 them right now, not necessarily what happened in</p>	<p style="text-align: right;">Page 28</p> <p>1 with my parents for obvious reasons, or maybe not 2 so obvious, but... 3 Q. I understand that you're now in a -- you 4 are a pastor again; is that correct? 5 A. Yes. I've been received into the 6 Episcopal Church as a priest, and I am an assisting 7 priest. I don't have any administrative 8 responsibilities. I just help out with Sunday 9 services and some teaching, spiritual direction for 10 parishioners. 11 Q. This is a question that I should 12 probably know the answer to, but it's been a while 13 since I've gone to the Catholic Church. What is 14 the difference between a priest and a pastor? 15 A. A priest is a person, a pastor has a 16 role. I guess that's the easiest way to say it. 17 So priests are pastors. Generally, the word 18 "pastor" means "shepherd," right? So in the Roman 19 Catholic Church, the Episcopal Church, the Russian 20 Orthodox Church, the Greek Orthodox Church 21 ministers are ordained as priests. And pastors are 22 generally referred to in maybe more evangelical 23 traditions or the Methodist tradition, Lutheran 24 tradition. I think they call themselves pastors. 25 Q. Within any individual church, is the</p>

<p style="text-align: right;">Page 29</p> <p>1 pastor in charge of sort of -- is he sort of the</p> <p>2 head priest, the one that's in charge?</p> <p>3 A. Generally, in the Episcopal tradition we</p> <p>4 call that person the rector.</p> <p>5 Q. You're aware, of course, that there have</p> <p>6 been lawsuits against the Helena Catholic Diocese,</p> <p>7 correct?</p> <p>8 A. Yes.</p> <p>9 Q. And have you been questioned by anyone</p> <p>10 in any of those lawsuits?</p> <p>11 A. No.</p> <p>12 Q. So you have no involvement in any of</p> <p>13 those?</p> <p>14 A. No, not at all.</p> <p>15 Q. You're not a medical doctor, correct?</p> <p>16 A. No, I'm not.</p> <p>17 Q. And is it true then that you cannot</p> <p>18 diagnose patients?</p> <p>19 A. I'm able to give a psychological</p> <p>20 diagnosis. I cannot prescribe medications or</p> <p>21 diagnose medical conditions.</p> <p>22 Q. And what do you mean when you say "a</p> <p>23 psychological diagnosis"?</p> <p>24 A. Well, the treatment form for counseling</p> <p>25 professionals is called the DSM, the Diagnostic</p>	<p style="text-align: right;">Page 31</p> <p>1 Q. -- say "yes" or "no."</p> <p>2 A. Right.</p> <p>3 Q. Thank you, I appreciate that.</p> <p>4 One of the initials you list behind your</p> <p>5 name is "MA." Does that simply mean master's, that</p> <p>6 you have a master's?</p> <p>7 A. Master of Arts, yes.</p> <p>8 Q. You also list the initials "STL" behind</p> <p>9 your name. Is that -- is that something to do with</p> <p>10 your theology degree?</p> <p>11 A. Yes. That's a European degree. It's a</p> <p>12 master's in theology, sacred theology. So, in</p> <p>13 English, it would be licentiate in sacred theology.</p> <p>14 Q. Okay. That abbreviation, STL, is not at</p> <p>15 issue here in your counseling of Mr. Meyer, is it?</p> <p>16 A. No. I --</p> <p>17 Q. Well -- go ahead.</p> <p>18 A. I use my e-mail for both of my jobs, so</p> <p>19 that's why I list it.</p> <p>20 Q. Understood. You also have listed behind</p> <p>21 your name the initials "LMHC", is that right?</p> <p>22 A. That is Licensed Mental Health Counselor</p> <p>23 in the state of Washington. That should -- I'm no</p> <p>24 longer practicing there, so that shouldn't still</p> <p>25 apply. That's a mistake to have left that there.</p>
<p style="text-align: right;">Page 30</p> <p>1 Statistical criteria from the American Psychiatric</p> <p>2 Association. And every patient that I see has a</p> <p>3 diagnosis from the DSM-5. That was part of my</p> <p>4 training, to diagnose -- at least diagnose</p> <p>5 everybody with something. And if they're coming to</p> <p>6 see me, there's probably a good reason. So I don't</p> <p>7 usually have any problems.</p> <p>8 Q. You're not a psychologist, correct?</p> <p>9 A. Nope.</p> <p>10 Q. How do you characterize yourself; is it</p> <p>11 as a counselor?</p> <p>12 A. Psychotherapist, counselor, sure.</p> <p>13 Uh-huh.</p> <p>14 Q. Do you have any sort of criminal record?</p> <p>15 A. Speeding ticket once.</p> <p>16 Q. You list a number of different initials</p> <p>17 behind your name on your resume, correct?</p> <p>18 A. Uh-huh.</p> <p>19 Q. Is that a "yes"?</p> <p>20 A. Yes.</p> <p>21 Q. I should have said that at the</p> <p>22 beginning. Even though we're talking by video, the</p> <p>23 court reporter is taking down all of our words. So</p> <p>24 if you can please --</p> <p>25 A. Right.</p>	<p style="text-align: right;">Page 32</p> <p>1 Q. Is that --</p> <p>2 A. It was.</p> <p>3 Q. I'm sorry, go ahead.</p> <p>4 A. I'm sorry. That was my license and my</p> <p>5 title in the state of Washington. They had a</p> <p>6 separate counseling category for those who simply</p> <p>7 work with mental health versus family counseling or</p> <p>8 addiction counseling or social work. But we don't</p> <p>9 have that designation here in the state of Montana.</p> <p>10 Q. Okay. So just to be clear, the LMHC is</p> <p>11 not a title that is recognized by the state of</p> <p>12 Montana?</p> <p>13 A. No. It's recognized by the state of</p> <p>14 Washington.</p> <p>15 Q. Okay. You also have listed behind your</p> <p>16 name the initials "LCPC", is that correct?</p> <p>17 A. Yes.</p> <p>18 Q. What is that?</p> <p>19 A. State of Montana. Uh-huh. That's</p> <p>20 Licensed Clinical Professional Counselor. And that</p> <p>21 would be the equivalent of -- it's much more broad</p> <p>22 than Washington uses. So that's -- mostly what</p> <p>23 counselors are in the state of Montana, you're</p> <p>24 either a marriage and family counselor, a licensed</p> <p>25 addiction counselor, a social worker, or a Licensed</p>

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<p>1 Clinical Professional Counselor.</p> <p>2 Q. And what did you do to receive that</p> <p>3 title or obtain that title?</p> <p>4 A. A graduate degree and at least 2,000</p> <p>5 hours of client face-to-face time, and I believe</p> <p>6 it was 3,000 -- or 300 hours of supervision. I'd</p> <p>7 have to look that up. I'm not sure what the</p> <p>8 requirements are, but...</p> <p>9 I transferred my license from the state</p> <p>10 of Washington to the state of Montana, and -- I'm</p> <p>11 trying to remember. I also had to take a national</p> <p>12 exam.</p> <p>13 Q. Did you pass that?</p> <p>14 A. Yes. I got one question wrong.</p> <p>15 Q. So the LCPC, is that the only license</p> <p>16 that you have that is recognized by the state of</p> <p>17 Montana?</p> <p>18 A. Yes. And my driver's license, I</p> <p>19 suppose.</p> <p>20 Q. Are you board certified?</p> <p>21 A. By the Board of Behavioral Health of the</p> <p>22 state of Montana. That's where my license comes</p> <p>23 from. Excuse me.</p> <p>24 Q. So there's no separate board</p> <p>25 certification, for example, from a national group</p>	<p>1 A. I fell in love and bought a house.</p> <p>2 Q. Have you ever had a claim made against</p> <p>3 you by a patient?</p> <p>4 A. No.</p> <p>5 Q. What type of counseling do you</p> <p>6 specialize in, if any?</p> <p>7 A. Depression, anxiety and trauma, and</p> <p>8 LGBTQ issues, including transgender counseling.</p> <p>9 Q. Let's now talk to -- let's transition</p> <p>10 and start talking about your counseling with</p> <p>11 Mr. Meyer, specifically. Is it correct that you</p> <p>12 first saw Mr. Meyer on June 8th of 2018?</p> <p>13 A. I believe so. Hold on. I was going to</p> <p>14 pull those back up to make sure. Yes.</p> <p>15 Q. And did you know Mr. Meyer before you</p> <p>16 first counseled him?</p> <p>17 A. I did not.</p> <p>18 Q. Do you know how he came -- came to be</p> <p>19 with you, to treat with you?</p> <p>20 A. Yes. His AA sponsor is a friend who</p> <p>21 suggested my services.</p> <p>22 Q. Who is that?</p> <p>23 A. Pete Hamden.</p> <p>24 Q. And you're aware that Mr. Meyer wrecked</p> <p>25 while skiing and was injured in December of 2015?</p>
Page 34	Page 36
<p>1 of national LCPCs; is that right?</p> <p>2 A. Yeah. I didn't opt to do that.</p> <p>3 Q. So that is something that is out there,</p> <p>4 but you do not have that certification?</p> <p>5 A. No, I didn't think it was that needed or</p> <p>6 necessary. It was an added expense and added years</p> <p>7 of study, and the clock is ticking in my life, so.</p> <p>8 Q. As it is for all of us, I think. So how</p> <p>9 long have you been working as a LCPC on your own,</p> <p>10 without any supervision?</p> <p>11 A. I guess as soon as I got my license</p> <p>12 transferred from Washington to the state of</p> <p>13 Montana. And I believe -- I didn't start</p> <p>14 practicing in the state of Montana for a while</p> <p>15 because I was recovering, but I believe I got that</p> <p>16 license in -- it doesn't tell me. It actually was</p> <p>17 quite a nightmare. They lost my file like three</p> <p>18 times, so I'm a little confused about the dates.</p> <p>19 Q. If you could just give me your best</p> <p>20 estimate, that would be fine.</p> <p>21 A. I started practicing in Bozeman in 2008</p> <p>22 or '09.</p> <p>23 Q. Thank you.</p> <p>24 A. And I practiced when I lived in Butte.</p> <p>25 Q. Why did you move from Butte to Bozeman?</p>	<p>1 A. Yes.</p> <p>2 Q. So the first time that you saw Mr. Meyer</p> <p>3 was two and a half years after his ski wreck,</p> <p>4 right?</p> <p>5 A. Yes. Yeah.</p> <p>6 Q. And you never treated him before the</p> <p>7 wreck?</p> <p>8 A. No.</p> <p>9 Q. Never met him before the wreck?</p> <p>10 A. No.</p> <p>11 Q. Did not know what he was like?</p> <p>12 A. No.</p> <p>13 Q. So you had -- and you still have no</p> <p>14 baseline to measure against, correct?</p> <p>15 A. Just his word and the word of his now</p> <p>16 wife, who occasionally accompanied him in</p> <p>17 counseling sessions.</p> <p>18 Q. And his wife, have you ever met with his</p> <p>19 wife independently without Mr. Meyer present?</p> <p>20 A. I don't think so, no. I'm pretty sure</p> <p>21 not, yeah.</p> <p>22 Q. And you've never spoken with any of his</p> <p>23 doctors, right?</p> <p>24 A. No.</p> <p>25 Q. What did you discuss with Mr. Meyer on</p>

<p style="text-align: right;">Page 37</p> <p>1 June 8th of 2018?</p> <p>2 A. I asked him to just give me background</p> <p>3 information. When I do an intake, it's mostly</p> <p>4 narrative. But the form that he completed was</p> <p>5 also -- he filled that out prior to our meeting.</p> <p>6 And we just discussed what his needs are, and he</p> <p>7 explained the skiing accident and possible</p> <p>8 traumatic brain injury and difficulty processing.</p> <p>9 And my notes say he was reporting insomnia,</p> <p>10 depression, obsessive thinking, dissociation and</p> <p>11 suicidal ideation -- simply thoughts, not</p> <p>12 attempted. And based on that narrative, the</p> <p>13 patient satisfied all the criteria necessary for</p> <p>14 post-traumatic stress disorder.</p> <p>15 Q. What did Mr. Meyer tell you about his</p> <p>16 ski wreck when you first met with him in June of</p> <p>17 2018?</p> <p>18 A. I didn't get a lot of details. He said</p> <p>19 he had some injury from the ski wreck. I'm not a</p> <p>20 skier. He told me in the narrative what had</p> <p>21 happened, that he was skiing and he had an accident</p> <p>22 and somehow it was not marked properly where he</p> <p>23 was, if it was out of bounds or not, and he felt as</p> <p>24 if it should have been marked, and that he spent</p> <p>25 significant time injured. And I believe he was</p>	<p style="text-align: right;">Page 39</p> <p>1 Q. Do you know if Mr. Meyer ever had</p> <p>2 obsessive thinking prior to December of 2015?</p> <p>3 A. I do not.</p> <p>4 Q. Do you know if Mr. Meyer ever had</p> <p>5 dissociation prior to December of 2015?</p> <p>6 A. Patient reported no dissociative</p> <p>7 tendencies prior to that.</p> <p>8 Q. And you don't know if what Mr. Meyer</p> <p>9 reported to you is true or not, do you?</p> <p>10 A. I usually take my clients at their word.</p> <p>11 Q. I understand that. But you don't know</p> <p>12 if what he told you is true or not, do you?</p> <p>13 A. Actually, no.</p> <p>14 Q. Do you know if Mr. Meyer ever had</p> <p>15 suicidal ideation before December of 2015?</p> <p>16 A. He reported not.</p> <p>17 Q. Do you know if Mr. Meyer ever described</p> <p>18 himself as unmanageable prior to December of 2015?</p> <p>19 A. I do not.</p> <p>20 Q. And you've never spoke with any of</p> <p>21 Mr. Meyer's family members?</p> <p>22 A. Other than his --</p> <p>23 Q. Other than his wife?</p> <p>24 A. Yes. That is correct, I have not.</p> <p>25 Q. You've never spoken with his father, for</p>
<p style="text-align: right;">Page 38</p> <p>1 also incapacitated for some of that time, whether</p> <p>2 it was in a coma or just hospitalized, I'm not</p> <p>3 certain. We didn't talk about that part very much.</p> <p>4 It was mostly dealing with the after effects and</p> <p>5 not trying to -- generally, I don't like to go over</p> <p>6 those situations in order to not re-traumatize the</p> <p>7 patient, but to just take that and move forward</p> <p>8 with it. So I didn't spend a lot of time on</p> <p>9 details. I really wanted to spend more time on how</p> <p>10 he was experiencing the world after the accident</p> <p>11 and what he needed in order to have a full life,</p> <p>12 how I could help him overcome some of the</p> <p>13 psychological questions and some of the cognition</p> <p>14 issues that he apparently has.</p> <p>15 Q. Do you know if Mr. Meyer ever had</p> <p>16 insomnia prior to December of 2015?</p> <p>17 A. He reported that he was usually a good</p> <p>18 sleeper prior to that.</p> <p>19 Q. And other than what he told you, you</p> <p>20 have no source of information, correct?</p> <p>21 A. I do not.</p> <p>22 Q. Do you know if Mr. Meyer ever had</p> <p>23 depression prior to December of 2015?</p> <p>24 A. He didn't report having depression prior</p> <p>25 to that.</p>	<p style="text-align: right;">Page 40</p> <p>1 example?</p> <p>2 A. No.</p> <p>3 Q. You've never spoken with any of his</p> <p>4 friends?</p> <p>5 A. No.</p> <p>6 Q. Never spoke with any of his employers?</p> <p>7 A. I have not.</p> <p>8 Q. And did you conclude, when you first met</p> <p>9 with Mr. Meyer on June 8th, that he had PTSD?</p> <p>10 A. I did.</p> <p>11 Q. And how did you reach that conclusion?</p> <p>12 A. I reached that conclusion with patient's</p> <p>13 report of trauma and the symptoms that I observed</p> <p>14 in the room with him, which were restlessness and</p> <p>15 losing trains of thought while speaking, avoidance</p> <p>16 of the traumatic event in speech, the report of</p> <p>17 hypervigilance, which most trauma patients report</p> <p>18 as being extra cautious in the world. It's kind of</p> <p>19 a hypothalamic response that the brain has when</p> <p>20 someone goes through danger. It's a lot more aware</p> <p>21 of possible danger and can be overexcited in the</p> <p>22 hypothalamic response.</p> <p>23 Q. Okay. So just so I understand what</p> <p>24 you're saying, part of the reason you concluded</p> <p>25 Mr. Meyer has -- had PTSD or has PTSD is because</p>

<p style="text-align: right;">Page 41</p> <p>1 you believe he was hypervigilant; is that right?</p> <p>2 A. Yes. There was -- there were -- there</p> <p>3 were signs of hypervigilance, which were -- I guess</p> <p>4 an easy way of explaining it would be making</p> <p>5 something out of nothing, thinking one is in danger</p> <p>6 when one is not in danger, or looking for danger in</p> <p>7 a way that a person did not before the event.</p> <p>8 Q. Did Mr. Meyer report to you that he rock</p> <p>9 climbs?</p> <p>10 A. I believe he did, yes. I think we</p> <p>11 discussed it in passing.</p> <p>12 Q. Did Mr. Meyer report to you that he</p> <p>13 skis, both at a ski resort and in the back country?</p> <p>14 A. I don't think we talked about the back</p> <p>15 country. We talked about the skiing at the resort,</p> <p>16 simply in light of the accident.</p> <p>17 Q. Well, did he report to you that he skis</p> <p>18 at the resort and in the back country after</p> <p>19 December of 2015?</p> <p>20 A. I don't believe so. That doesn't sound</p> <p>21 familiar to me, no.</p> <p>22 Q. You are not aware of that?</p> <p>23 A. I'm not aware of that.</p> <p>24 Q. That is not consistent with</p> <p>25 hypervigilant behavior, is it?</p>	<p style="text-align: right;">Page 43</p> <p>1 and diagnosticians.</p> <p>2 Q. Would it be important to, for example,</p> <p>3 look at someone's past academic record?</p> <p>4 A. It could be. But for what we were</p> <p>5 discussing, I didn't find it necessary. I knew the</p> <p>6 client was a lawyer of the bar of Montana.</p> <p>7 Q. Well, and how is that relevant to you?</p> <p>8 A. That says to me that he's well educated.</p> <p>9 Q. Okay. Does it matter to you, for</p> <p>10 example, if he had previously failed the bar exam?</p> <p>11 A. I don't believe it to be relevant.</p> <p>12 Q. Why not?</p> <p>13 A. I don't know. I guess it just never</p> <p>14 came up, and I didn't find it something I wanted to</p> <p>15 pursue, I guess.</p> <p>16 Q. Would someone's grades in college be</p> <p>17 relevant?</p> <p>18 A. I'm not sure how, in this instance, if I</p> <p>19 would be affected by knowing the grades in college</p> <p>20 in my treatment. I don't believe that would change</p> <p>21 anything I would do in treatment, so I wouldn't</p> <p>22 necessarily ask for that.</p> <p>23 Q. Okay. Well, I mean, is it important to</p> <p>24 know someone's baseline enough that -- if you want</p> <p>25 to know how an incident affected someone, don't you</p>
<p style="text-align: right;">Page 42</p> <p>1 A. What's that? Not skiing? I'm not</p> <p>2 understanding the question. Please repeat.</p> <p>3 Q. Mr. Meyer continuing to ski, both at the</p> <p>4 ski resort and in the back country, is not</p> <p>5 consistent with hypervigilance, is it?</p> <p>6 A. After the accident?</p> <p>7 Q. Yes.</p> <p>8 A. It depends. Generally, no.</p> <p>9 Q. So is it correct to say that you reached</p> <p>10 the conclusion that -- well, excuse me. Strike</p> <p>11 that.</p> <p>12 The other characteristics that Mr. Meyer</p> <p>13 had that led you to believe he has PTSD are the</p> <p>14 restlessness, the losing his train of thought. Did</p> <p>15 Mr. Meyer have those characteristics prior to</p> <p>16 December of 2015?</p> <p>17 A. I do not know. He reported not.</p> <p>18 Q. What would you look at in someone's</p> <p>19 background to determine -- to determine their</p> <p>20 baseline?</p> <p>21 A. I generally will trust the client or the</p> <p>22 patient in that event. At the point I was working</p> <p>23 with Mr. Meyer, I wasn't aware that I would be</p> <p>24 deposed in a lawsuit or I probably would have been</p> <p>25 more careful about checking with medical providers</p>	<p style="text-align: right;">Page 44</p> <p>1 need to know what their baseline is first?</p> <p>2 A. Yes. It helps. I usually trust the</p> <p>3 client to report their baseline.</p> <p>4 Q. Okay. So did you ask Mr. Meyer about</p> <p>5 his grades in high school and college?</p> <p>6 A. I only asked about education once or</p> <p>7 twice. When Mr. Meyer spoke he was articulate, and</p> <p>8 his knowledge about -- his cognition skills were</p> <p>9 normal, but affected in a way that he would be</p> <p>10 searching for words. But on the whole, his</p> <p>11 vocabulary, his knowledge, his intelligence seemed</p> <p>12 to be intact. He had some issues, but...</p> <p>13 After 20 years, maybe I rely on my</p> <p>14 intuition more than I ought, but...</p> <p>15 I've dealt with hundreds of</p> <p>16 post-traumatic stress disorder patients, and I</p> <p>17 found him to be consistent with other patients that</p> <p>18 I've treated with this disorder.</p> <p>19 Q. Okay. So what I'm trying to get at</p> <p>20 though, Mr. Smith, is that, I mean, you've said</p> <p>21 that Mr. Meyer was articulate, he seemed</p> <p>22 intelligent to you, but at the same time you say he</p> <p>23 was affected. And I assume you mean he was</p> <p>24 affected by the December 2015 incident; is that</p> <p>25 correct?</p>

<p style="text-align: right;">Page 45</p> <p>1 A. That's what he reported, yes. And the</p> <p>2 things that I wrote in my notes the first time were</p> <p>3 the things that he reported.</p> <p>4 Q. Okay. So my point is, though, if you</p> <p>5 believe Mr. Meyer was articulate, intelligent, all</p> <p>6 of those things you just described, how can you say</p> <p>7 that he was affected without knowing what his</p> <p>8 baseline is?</p> <p>9 A. I trusted the patient to provide that</p> <p>10 baseline for me. I didn't feel like I need to open</p> <p>11 an investigation. I usually go with what my</p> <p>12 patients tell me.</p> <p>13 Q. Okay. Is there anything else that you</p> <p>14 recall discussing with Mr. Meyer on June 8th of</p> <p>15 2018 that we have not discussed?</p> <p>16 A. We did talk about whether he was open to</p> <p>17 medication for anxiety or depression. We did not</p> <p>18 explore that any further, but that was mentioned in</p> <p>19 passing. I usually ask that because some patients</p> <p>20 will be open to taking medication and some are</p> <p>21 resistant to taking medication, so it's generally a</p> <p>22 question I ask in the first session.</p> <p>23 Q. And what did Mr. Meyer tell you about</p> <p>24 taking medication?</p> <p>25 A. He said he didn't want to take</p>	<p style="text-align: right;">Page 47</p> <p>1 in that meeting?</p> <p>2 A. We mostly discussed his irrational fear</p> <p>3 of being homeless. And I explored with him on</p> <p>4 purpose the adjustment to change, his ability to</p> <p>5 adjust to change. And we were talking about a lot</p> <p>6 of skills about alleviating anxiety, such as deep</p> <p>7 breathing or meditation. He tended to have some</p> <p>8 intrusive thoughts that would just kind of come in,</p> <p>9 as he reported. And so I was working with him,</p> <p>10 just in a skill-based way, to address those</p> <p>11 thoughts and those anxieties, slowing down.</p> <p>12 Q. What do you mean when you say he had</p> <p>13 "intrusive thoughts"?</p> <p>14 A. Like thoughts would stay in his brain</p> <p>15 and be intrusive. So it's almost like</p> <p>16 perseveration, but they're very strong. So</p> <p>17 sometimes thoughts of -- for example, in the</p> <p>18 session he talked about his thought of being</p> <p>19 homeless and his fear about that, which would crop</p> <p>20 up from time to time without a trigger. An</p> <p>21 intrusive thought is something that just comes in</p> <p>22 without necessarily an association or a trigger.</p> <p>23 Q. Do you recall any other specific</p> <p>24 examples of intrusive thoughts that Mr. Meyer told</p> <p>25 you about?</p>
<p style="text-align: right;">Page 46</p> <p>1 medication.</p> <p>2 Q. And why did he say that to you?</p> <p>3 A. They're -- well, if I can speak freely</p> <p>4 about this, there are people in the world who</p> <p>5 simply hate medication, and he seems to be one of</p> <p>6 them. They don't want to have anything unnatural</p> <p>7 in their bodies or -- a number of reasons. It's</p> <p>8 sometimes a hard sell for some folks.</p> <p>9 Q. I'm sorry. Can you point to me where in</p> <p>10 your record you have notes about discussing</p> <p>11 medication? Maybe I'm just missing it.</p> <p>12 A. The last sentence.</p> <p>13 Q. At the very end. I see.</p> <p>14 A. Yes. Yeah.</p> <p>15 Q. Okay. And so you were then set to meet</p> <p>16 with Mr. Meyer on June 15; is that correct?</p> <p>17 A. Yes.</p> <p>18 Q. And he canceled that meeting, correct?</p> <p>19 A. I canceled because I had to go help my</p> <p>20 father, who had an accident.</p> <p>21 Q. Excuse me, I misread that. Thank you.</p> <p>22 So you next met with Mr. Meyer on June</p> <p>23 29 of 2018?</p> <p>24 A. I did.</p> <p>25 Q. And what did you discuss with Mr. Meyer</p>	<p style="text-align: right;">Page 48</p> <p>1 A. There were a few statements that were</p> <p>2 discussing about how he was worried about never</p> <p>3 getting back to normal again. That was the other</p> <p>4 most intrusive thought, was "Will I ever be back to</p> <p>5 normal?" And, of course, we can't answer that</p> <p>6 question.</p> <p>7 Q. Okay. Any other intrusive thoughts that</p> <p>8 you recall? And you just told me about the</p> <p>9 homelessness or the back to normal, anything else?</p> <p>10 A. Not that I recall. But if I do recall,</p> <p>11 I can mention them later.</p> <p>12 Q. Okay. Your notes also indicate that you</p> <p>13 discussed Mr. Meyer's memories of the accident; is</p> <p>14 that correct?</p> <p>15 A. Yes.</p> <p>16 Q. What did you discuss about Mr. Meyer's</p> <p>17 memories of the accident, the ski accident?</p> <p>18 A. I just asked him to tell me the story</p> <p>19 and what he remembered and what he didn't remember.</p> <p>20 And the recollection -- him telling the story was</p> <p>21 really hard, so I didn't push. I just kind of</p> <p>22 wanted it to come out naturally. He was -- during</p> <p>23 the narrative, he was emotionally very vulnerable,</p> <p>24 and I noticed signs of anxiety such as fidgeting</p> <p>25 and nervousness, some sweating. I didn't -- I</p>

<p style="text-align: right;">Page 49</p> <p>1 didn't so much concentrate on the details of the 2 accident as I concentrated on his experience of the 3 accident, what he was feeling, and what he was 4 feeling as he was reporting it back to me. 5 Q. Do you think it's important for you to 6 understand what actually happened in the accident? 7 A. I think it is from the client's point of 8 view, yes. 9 Q. Okay. So only from the client's point 10 of view? 11 A. Unless there are other reasons. But I 12 didn't see any other reasons to investigate 13 further. 14 Q. So what did Mr. Meyer tell you about his 15 memory of the accident when you met on June 29 of 16 2018? 17 A. Again, I did not put details in my notes 18 because I -- I don't -- I didn't think they were 19 relevant at the time, and I don't recall entirely 20 the conversation. It's simply the rough details of 21 skiing and having the accident. But the details of 22 which -- 23 Q. Did Mr. -- sorry. 24 A. -- were so clear. Yes. 25 Q. Did Mr. Meyer tell you that he believed</p>	<p style="text-align: right;">Page 51</p> <p>1 Q. Is that the only discussion -- I'm 2 sorry. Go ahead. 3 A. I think I was done. Sorry. I can't 4 recall. It just left my brain. 5 Q. All right. Understood. 6 Is that the only discussion you recall 7 ever having with Mr. Meyer about his choice not to 8 wear a helmet on the day of his ski wreck? 9 A. Yes. I thought it was helpful 10 information simply because of people's choice to 11 protect themselves or not to protect themselves is 12 sometimes relevant. 13 Q. And how do you think that's relevant to 14 Mr. Meyer's condition? 15 A. I think that he -- it told me that he's 16 sometimes a person who takes risks and he finds 17 those risks acceptable. Other people would not. 18 Q. Did Mr. Meyer tell you that he decided 19 not to wear a helmet because he saw that his 20 current -- now current wife was not wearing one? 21 A. No, we did not discuss that. 22 Q. Assuming that's true, what does that 23 tell you? 24 A. I would have to speculate. I don't know 25 if I feel comfortable doing that.</p>
<p style="text-align: right;">Page 50</p> <p>1 his bindings pre-released? 2 A. I don't believe so. 3 Q. Did Mr. Meyer tell you -- 4 A. I just don't recall. 5 Q. Did Mr. Meyer tell you he was skiing 6 fast? 7 A. No. 8 Q. Did Mr. Meyer tell you he was trying to 9 jump off the cat track? 10 A. I don't recall that. 11 Q. Did Mr. Meyer tell you if he was trying 12 to do a flip? 13 A. No, he did not. 14 Q. Did Mr. Meyer tell you whether he had 15 been warned of early season conditions? 16 A. No, he did not. 17 Q. Did you discuss with Mr. Meyer his 18 choice not to wear a helmet? 19 A. No, we did not. 20 Q. Have you ever discussed that with 21 Mr. Meyer? 22 A. I have. I mentioned it once, but we 23 didn't -- I'm trying to remember when that was. I 24 did ask him if he was wearing a helmet at the time, 25 and he said no. I didn't pursue that further.</p>	<p style="text-align: right;">Page 52</p> <p>1 Q. Okay. Did Mr. Meyer tell you -- either 2 on June 29th, or has he told you at any 3 time -- that he did not remember anything about his 4 ski wreck for close to six months? 5 A. He did mention that. 6 Q. And what did he tell you? What did 7 Mr. Meyer tell you about his inability to remember 8 the accident for up to six months? 9 A. We just explored it as a possible 10 traumatic brain injury. I just noticed it. I 11 was -- I was leaving that to his medical doctors. 12 Q. What do you mean when you say you "just 13 noticed it"? 14 A. I -- we -- we noted it. I noted it. 15 Q. Okay. So how do we know that the story 16 Mr. Meyer tells now about what happened in his ski 17 accident -- I mean, if he couldn't even remember 18 what happened for six months, how do we know that 19 his memory about the incident now is accurate 20 versus mixed up with things that other people have 21 told him? 22 A. Usually, when people lose memory, it 23 comes back in sporadic episodes. And it seemed to 24 me that details continued to match and were 25 consistent. I do not know whether he made them up</p>

<p style="text-align: right;">Page 53</p> <p>1 or not or other people had influenced him. Again,</p> <p>2 I tend to trust my patient and work with their</p> <p>3 beliefs. And I don't see my profession,</p> <p>4 necessarily, as something that needs to verify</p> <p>5 scientifically all the claims made by patients,</p> <p>6 so...</p> <p>7 Q. Okay.</p> <p>8 A. Yeah.</p> <p>9 Q. I completely understand that. That's</p> <p>10 not exactly the question I'm asking you though. So</p> <p>11 are you -- let me ask -- let me try this a</p> <p>12 different way.</p> <p>13 Basically, what you're telling</p> <p>14 me -- tell me if this is right -- however, what</p> <p>15 Mr. Meyer is telling you about the accident, you</p> <p>16 don't care exactly if what he's telling you is</p> <p>17 factually correct, you're just -- what concerns you</p> <p>18 is what his memory of it is; is that right?</p> <p>19 A. Yes.</p> <p>20 Q. Okay.</p> <p>21 A. What was his experience, like emotional</p> <p>22 and physical experience, yes.</p> <p>23 Q. Right. Okay. But, so the question I'm</p> <p>24 asking you is a little -- I understand that, but</p> <p>25 the question I'm asking you is a little bit</p>	<p style="text-align: right;">Page 55</p> <p>1 Q. Go ahead.</p> <p>2 A. He did not admit fault, or he did not</p> <p>3 admit anything of that kind, if that's helpful.</p> <p>4 Q. Would that help? In your professional</p> <p>5 opinion, does that help someone's healing if they</p> <p>6 are able to accept some fault for an incident?</p> <p>7 A. It could, if that is relevant. It</p> <p>8 wasn't that relevant to our work at the time. We</p> <p>9 were mostly concentrating on helping him alleviate</p> <p>10 anxiety, and I wasn't necessarily as interested in</p> <p>11 his -- I want to be clear, but I also want to be</p> <p>12 concise. I wasn't as interested in the past as I</p> <p>13 was in current symptoms that the patient was</p> <p>14 experiencing, which were trauma related and</p> <p>15 consistent with trauma, such as anxiety and</p> <p>16 hyperventilation sometimes, things like that.</p> <p>17 Q. Do you find that your patients have a</p> <p>18 more difficult time moving on from an incident that</p> <p>19 is their own fault versus someone else's fault?</p> <p>20 A. Again, it varies on every situation and</p> <p>21 every individual. People process trauma very</p> <p>22 differently. If it's -- if it's -- if someone is</p> <p>23 delusional, if I notice something delusional about</p> <p>24 their thinking, I will pursue it. But I did not</p> <p>25 notice anything delusional about his thinking. His</p>
<p style="text-align: right;">Page 54</p> <p>1 different. I mean, the question I'm asking, is</p> <p>2 there any way for someone like you to know if what</p> <p>3 he is telling you about the accident, whether it is</p> <p>4 true or whether it has been influenced or changed</p> <p>5 by what other people have told him?</p> <p>6 A. Again, I trust the client, so I cannot</p> <p>7 be certain of that.</p> <p>8 Q. Okay. Have you ever discussed with</p> <p>9 Mr. Meyer about whose fault the ski wreck was?</p> <p>10 A. He believed the fault to be with the</p> <p>11 resort.</p> <p>12 Q. And has he ever -- has he ever accepted</p> <p>13 any personal responsibility for the ski wreck in</p> <p>14 his discussions with you?</p> <p>15 A. Yes.</p> <p>16 Q. And what has he told you?</p> <p>17 A. That --</p> <p>18 Q. Sorry. What had he told you when he</p> <p>19 accepted some responsibility for the ski wreck?</p> <p>20 A. He just -- he didn't necessarily accept</p> <p>21 responsibility for the wreck. He wondered if he</p> <p>22 should have gone out that day. That was kind of</p> <p>23 the background. Regret, probably, is what I'm</p> <p>24 talking about, whether he should have gone or</p> <p>25 should not have gone. He --</p>	<p style="text-align: right;">Page 56</p> <p>1 story remained consistent, his symptoms were</p> <p>2 consistent, so I found no reason to explore that.</p> <p>3 Q. Okay. Mr. Smith, I was just handed, a</p> <p>4 few minutes ago, the remainder of your notes. So</p> <p>5 let's take a really short break, and I'm going to</p> <p>6 review those notes for five minutes, and then we'll</p> <p>7 get back on the record. And we're going to correct</p> <p>8 the record and replace the new -- make it a new</p> <p>9 Exhibit 97, which will have all of your notes,</p> <p>10 okay?</p> <p>11 A. All righty.</p> <p>12 Q. Okay. So just give me five minutes or</p> <p>13 so. Thank you, sir.</p> <p>14 A. Uh-huh.</p> <p>15 MS. WALAS: Ian, will you forward me those as</p> <p>16 well?</p> <p>17 MR. McINTOSH: Yes, I will.</p> <p>18 MS. WALAS: Thank you.</p> <p>19 MR. McINTOSH: Thank you.</p> <p>20 (Whereupon, a brief</p> <p>21 recess was taken.)</p> <p>22 BY MR. McINTOSH:</p> <p>23 Q. Okay. Mr. Smith, we're back on the</p> <p>24 record. You understand you're still under oath,</p> <p>25 right?</p>

<p style="text-align: right;">Page 57</p> <p>1 A. Yes.</p> <p>2 Q. Okay. You next met with Mr. Meyer in a</p> <p>3 counseling session on July 6th of 2018; is that</p> <p>4 right?</p> <p>5 A. Yes.</p> <p>6 Q. And in that session, Mr. Meyer told you</p> <p>7 that he, quote, "spaces out," is that right?</p> <p>8 A. Yes.</p> <p>9 Q. What did that mean to you?</p> <p>10 A. He would lose train of thought or he</p> <p>11 would just -- it's not unusual in trauma patients</p> <p>12 for them to check out. It's a defense mechanism of</p> <p>13 the brain. If something is too painful to look at,</p> <p>14 your brain can kind of check out. So he reported</p> <p>15 that happening occasionally, would just stare at</p> <p>16 the wall for minutes at a time and not really be</p> <p>17 thinking of anything or find himself staring into</p> <p>18 space.</p> <p>19 Q. Doesn't just about everybody do that at</p> <p>20 some point or another?</p> <p>21 A. Yes. But he reported that this seemed</p> <p>22 to be increasing during this time or recently</p> <p>23 around that time.</p> <p>24 Q. Okay.</p> <p>25 A. Or at least he reported noticing it</p>	<p style="text-align: right;">Page 59</p> <p>1 A. We started in on details. I started</p> <p>2 with some detail work in trying to get him to look</p> <p>3 at the event without re-traumatizing himself. He</p> <p>4 began to relate the incident, but he was visibly</p> <p>5 getting very emotionally upset and I feared</p> <p>6 re-traumatizing him, so I backed off. Just the</p> <p>7 obvious symptoms of anxiety and sadness made me</p> <p>8 believe that we should do this at a time when he</p> <p>9 was less emotionally vulnerable.</p> <p>10 Q. Did he tell you anything about the ski</p> <p>11 wreck that you have not told us already here today?</p> <p>12 A. I don't believe so. I don't recall.</p> <p>13 Q. Okay. And even when you got into</p> <p>14 details on June 6, 2018, Mr. Meyer did not tell you</p> <p>15 that he had been skiing fast?</p> <p>16 A. No.</p> <p>17 Q. You said you do not ski?</p> <p>18 A. I have, but I have not for 20 years. I</p> <p>19 have a bad knee. Thanks, football.</p> <p>20 Q. You met with Mr. Meyer on July 13 of</p> <p>21 2018; is that right?</p> <p>22 A. Yes.</p> <p>23 Q. And in that meeting you were discussing</p> <p>24 Mr. Meyer's anxiety around his upcoming wedding?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 58</p> <p>1 more.</p> <p>2 Q. Okay. Do you know how often he spaced</p> <p>3 out before the December of 2015 ski wreck?</p> <p>4 A. He reported not noticing that before the</p> <p>5 wreck, other than just normal spacing out. If a</p> <p>6 patient reports something to me, it's -- I usually</p> <p>7 look at it as clinically significant. If they</p> <p>8 don't mention it, I don't tend to pursue it unless</p> <p>9 I feel like it's necessary for treatment. At this</p> <p>10 stage of treatment, I was mostly concentrating on</p> <p>11 addressing symptoms and not taking history, so.</p> <p>12 Q. What would you look at to be evidence of</p> <p>13 Mr. Meyer possibly spacing out prior to the</p> <p>14 December 2015 ski wreck?</p> <p>15 A. I don't understand the question.</p> <p>16 Q. Well, is there any way to verify or to</p> <p>17 see whether it's true that Mr. Meyer did not space</p> <p>18 out before the December 2015 ski wreck?</p> <p>19 A. No way to verify that, no.</p> <p>20 Q. On July 6th, 2018, Mr. Meyer again</p> <p>21 talked to you about his memory of the ski wreck; is</p> <p>22 that right?</p> <p>23 A. He did, yes.</p> <p>24 Q. Did he tell you he -- I'm sorry. Go</p> <p>25 ahead.</p>	<p style="text-align: right;">Page 60</p> <p>1 Q. That is obviously something that was not</p> <p>2 caused by the December 2015 ski wreck; would you</p> <p>3 agree with that?</p> <p>4 A. The anxiety about his wedding, no.</p> <p>5 Q. That might not look good on the record.</p> <p>6 No, you do not agree or?</p> <p>7 A. I'm sorry. Could you ask the question</p> <p>8 again, please?</p> <p>9 Q. Sure.</p> <p>10 In your opinion, was Mr. Meyer's anxiety</p> <p>11 regarding his upcoming wedding a result of the</p> <p>12 December 2015 ski wreck?</p> <p>13 A. I think his anxiety may have been</p> <p>14 exacerbated by the ski wreck. He tended to feel</p> <p>15 anxiety more acutely afterwards.</p> <p>16 I apologize for the noise. My dogs hate</p> <p>17 the UPS man.</p> <p>18 Q. As do most, I think.</p> <p>19 Mr. Meyer also expressed to you anxiety</p> <p>20 about his lawsuit?</p> <p>21 A. He did. He -- I'm trying to remember.</p> <p>22 Mostly financial anxiety. But he also felt like it</p> <p>23 was a matter of justice for him. That was kind of</p> <p>24 important. And that anxiety is -- we discussed</p> <p>25 whether or not it was useful for him to bring up</p>

<p style="text-align: right;">Page 61</p> <p>1 the lawsuit in session, or if it was something that</p> <p>2 we -- he should be talking about with the lawyers.</p> <p>3 What I was mostly concentrating on was emotional</p> <p>4 response, and I noted that his emotional response</p> <p>5 on the 13th was seeing the world as very dangerous.</p> <p>6 And so we discussed a possibly shifting that view.</p> <p>7 Or is in trouble, that's common in a lot of trauma</p> <p>8 patients.</p> <p>9 Q. What do you mean when you say see that</p> <p>10 Mr. Meyer was seeing the world as very dangerous?</p> <p>11 A. He was seeing the world as not a kind</p> <p>12 place, but a dangerous place in some ways. Not</p> <p>13 day to day to day, but I think his world view</p> <p>14 was that the world needed help and that it does</p> <p>15 have -- involve more risk than he reported having</p> <p>16 before the accident, feeling of things involved</p> <p>17 more risk for him.</p> <p>18 Q. Doesn't Mr. Meyer engage in a number of</p> <p>19 high-risk activities?</p> <p>20 A. I know he's an outdoorsman.</p> <p>21 Q. So how is that consistent with -- for</p> <p>22 example, if he engages in activities such as</p> <p>23 mountain biking, rock climbing, skiing, how is that</p> <p>24 consistent with viewing the world as a, quote,</p> <p>25 "dangerous place"?</p>	<p style="text-align: right;">Page 63</p> <p>1 Q. Okay. And, in fact, how they raise</p> <p>2 their children is causing him stress, correct?</p> <p>3 A. There's philosophical differences and</p> <p>4 also historical differences in the background of</p> <p>5 both parents, and they are struggling to find the</p> <p>6 common ground there, yes.</p> <p>7 Q. And Mr. Meyer's job is causing him</p> <p>8 stress, correct?</p> <p>9 A. He reports that occasionally, yes.</p> <p>10 Q. And his finances are causing stress,</p> <p>11 correct?</p> <p>12 A. He reports that, yes.</p> <p>13 Q. And his finances are -- the financial</p> <p>14 stress he's facing are a result of his own</p> <p>15 decisions, aren't they?</p> <p>16 A. I don't know the details for certain.</p> <p>17 Q. Okay. Well, certainly he chose his own</p> <p>18 job, right?</p> <p>19 A. I believe so.</p> <p>20 Q. And he could have chosen a different job</p> <p>21 or could get a different job right now, whether</p> <p>22 within or without the -- outside the field of legal</p> <p>23 work, right?</p> <p>24 A. I suppose. I've never heard him express</p> <p>25 a desire for that, so I've never pursued that.</p>
<p style="text-align: right;">Page 62</p> <p>1 A. I need to clarify that it was more of an</p> <p>2 emotionally dangerous place than a physically</p> <p>3 dangerous place. That's manifested through his</p> <p>4 anxiety. In fact, I encouraged him to do the</p> <p>5 outdoor activities that he enjoyed as a way of</p> <p>6 normalizing his life, getting back to an active</p> <p>7 life.</p> <p>8 Q. And you agree that he's done that,</p> <p>9 correct?</p> <p>10 A. I believe so.</p> <p>11 Q. You agree, wouldn't you, that Mr. Meyer</p> <p>12 has a number of things in his life that cause him</p> <p>13 stress other than the ski accident, correct?</p> <p>14 A. Yes.</p> <p>15 Q. For example, his wedding caused him</p> <p>16 stress, correct?</p> <p>17 A. Yes. Plans fell apart at the last</p> <p>18 minute, that kind of thing.</p> <p>19 Q. His twins are now causing him stress,</p> <p>20 correct?</p> <p>21 A. Correct.</p> <p>22 Q. His relationship with his wife is</p> <p>23 causing him stress?</p> <p>24 A. Yes, but it's manageable. That feels</p> <p>25 manageable to me.</p>	<p style="text-align: right;">Page 64</p> <p>1 Q. But, for example, he could get a job</p> <p>2 within the legal field that perhaps paid more and</p> <p>3 paid on a more regular basis, correct?</p> <p>4 A. I believe he could. I don't believe,</p> <p>5 philosophically, he would be aligned with that.</p> <p>6 Q. What is your understanding of how he</p> <p>7 gets compensated in his current job?</p> <p>8 A. You broke up. I apologize, Ian.</p> <p>9 Q. No, no problem.</p> <p>10 What is your understanding of about how</p> <p>11 Mr. Meyer is compensated in his current job?</p> <p>12 A. We haven't talked about that very much.</p> <p>13 I know that he is -- has employees that he has to</p> <p>14 pay, and he has reported sometimes anxiety about</p> <p>15 lack of payment from clients. Knowing that these</p> <p>16 people depended on him has caused him some stress.</p> <p>17 That's what I can remember at this point.</p> <p>18 Q. Is it your understanding Mr. Meyer has</p> <p>19 any clients other than his own law firm?</p> <p>20 A. It's not my understanding. I think -- I</p> <p>21 thought all of his clients -- I maybe made the</p> <p>22 assumption that all of his clients came through his</p> <p>23 law firm. He has never explicitly pursued.</p> <p>24 Q. Right. And I guess I'm asking a little</p> <p>25 bit different question. Is it your understanding</p>

<p style="text-align: right;">Page 65</p> <p>1 that he has clients other than representing his own</p> <p>2 law firm?</p> <p>3 A. I do not know that.</p> <p>4 Q. You met with Mr. Meyer and his current</p> <p>5 wife, Amanda Eggert, on July 20th of 2018; is that</p> <p>6 right?</p> <p>7 A. Yes.</p> <p>8 Q. And did you ask Ms. Eggert what happened</p> <p>9 in the ski wreck?</p> <p>10 A. I did not. I mostly -- I did not ask</p> <p>11 for details, but I remember that she corroborated</p> <p>12 things that Mr. Meyer and I had talked about</p> <p>13 previously. They both -- they both related the</p> <p>14 same events, basically. I saw no discrepancies,</p> <p>15 let's say that.</p> <p>16 Q. What do you recall Ms. Eggert relaying</p> <p>17 to you about the ski wreck?</p> <p>18 A. Again, I don't remember details.</p> <p>19 Q. Okay.</p> <p>20 A. The task at hand was helping them</p> <p>21 communicate and get through anxiety that they were</p> <p>22 experiencing, and some conflict.</p> <p>23 Q. Well, what other anxiety were Mr. Meyer</p> <p>24 and Ms. Eggert experiencing when you met with them</p> <p>25 on July 20th, 2018?</p>	<p style="text-align: right;">Page 67</p> <p>1 listen to me because I have the answer," which is</p> <p>2 true, but it hardly -- instead of it being a</p> <p>3 philosophical thing done out of -- out of</p> <p>4 principle, it was more out of morals. This is the</p> <p>5 right thing to do. Does that make sense?</p> <p>6 Q. Not entirely. But let me try to ask you</p> <p>7 something different.</p> <p>8 Is moralizing something that you see</p> <p>9 Mr. Meyer doing on a regular basis?</p> <p>10 A. I do.</p> <p>11 Q. And how does Mr. Meyer moralize?</p> <p>12 A. From the beginning, Mr. Meyer has a</p> <p>13 world view strongly influenced by the concept of</p> <p>14 justice and sometimes very black-and-white thinking</p> <p>15 about what's okay and what's not okay. But for the</p> <p>16 most part -- we're working on that now. That will</p> <p>17 come later in the notes, I believe, about leaving</p> <p>18 that black and white view of the world behind. I</p> <p>19 saw that it was causing him and still causes him</p> <p>20 some anxiety to see the world that way, like "this</p> <p>21 is what's right" and "this is what's wrong."</p> <p>22 That's not how the world works.</p> <p>23 Q. You met with Mr. Meyer on August 3rd, of</p> <p>24 2018; is that right?</p> <p>25 A. Yes.</p>
<p style="text-align: right;">Page 66</p> <p>1 A. There was discussion of a member of</p> <p>2 Ms. Eggert's family who was abusing substances, and</p> <p>3 John felt like it was his duty to help and to</p> <p>4 assist. And I tried to talk him out of that</p> <p>5 responsibility. And, as someone who's worked with</p> <p>6 people in sobriety for decades now, I realize you</p> <p>7 can't tell somebody to get sober. You can't tell</p> <p>8 them how to live their life. So I asked him to</p> <p>9 resist the impulse to interfere in the life of that</p> <p>10 family member.</p> <p>11 Q. And that was causing Mr. Meyer stress</p> <p>12 because of their upcoming wedding?</p> <p>13 A. I believe it was causing him stress</p> <p>14 because he didn't feel comfortable giving his</p> <p>15 opinion, maybe. I'm trying to remember. Just give</p> <p>16 me a second.</p> <p>17 It was more of a problem-solving</p> <p>18 exercise than it was really anything else. And</p> <p>19 what I remember is, again, mostly helping him</p> <p>20 understand that, by taking on the responsibility</p> <p>21 for someone else's sobriety, he's adding stress to</p> <p>22 his own life.</p> <p>23 Q. What is moralizing?</p> <p>24 A. Moralizing is -- well, in this instance</p> <p>25 it was, "She should stop doing this and she should</p>	<p style="text-align: right;">Page 68</p> <p>1 Q. And in that meeting you discussed</p> <p>2 Mr. Meyer's financial stresses?</p> <p>3 A. On the 3rd or the 10th?</p> <p>4 Q. Yeah. I'm sorry, the 10th.</p> <p>5 A. I don't believe -- oh, the 10th. Yes,</p> <p>6 we did talk about financial considerations. He was</p> <p>7 paying out of pocket, was uninsured, and wanted to</p> <p>8 take a break, which is not unusual. I reiterated</p> <p>9 that he had issues that needed to have therapy in</p> <p>10 order to resolve them. He understood, but it's not</p> <p>11 unusual, after a few months, for patients to want</p> <p>12 to take a break from therapy. It can get very</p> <p>13 intense.</p> <p>14 Q. And I apologize, Mr. Smith. I did skip</p> <p>15 over the 3rd. Can you just tell me what you</p> <p>16 discussed with Mr. Meyer on August 3rd of 2019?</p> <p>17 A. This session was not necessarily one</p> <p>18 that was full of treatments. It was -- it was a</p> <p>19 lot of discussion about how he sees the world and</p> <p>20 how -- I did some psychoeducation about how the</p> <p>21 brain changes with trauma and how the brain</p> <p>22 operates, especially the hypothalamic fight,</p> <p>23 flight, or freeze response. And we had discussed</p> <p>24 neuroplasticity earlier, which is the brain's</p> <p>25 ability to change and to grow and to heal.</p>

<p style="text-align: right;">Page 69</p> <p>1 I remember on the 3rd -- I have a model 2 of a brain in my office, and so we kind of went 3 over all the neurological parts of the brain and 4 what it does, the physical parts of the brain. And 5 a lot of it wasn't really relevant to therapeutic 6 notes. It was more psychoeducational on his part, 7 his curiosity. We didn't really work on issues 8 involving him directly. It was mostly theoretical. 9 Q. You agree, don't you, that Mr. Meyer has 10 the ability to recover from any PTSD he has, if 11 any, right? 12 A. The likelihood is good. I hesitate to 13 say that anybody is ever completely cured from 14 post-traumatic stress. It's something that most 15 people will have to deal with for the rest of their 16 lives in some manner. 17 Q. A minute ago you said you discussed with 18 Mr. Meyer how he sees the world. How does 19 Mr. Meyer see the world? 20 A. He sees the world in need of saving. 21 Q. What does that mean? 22 A. I guess from his environmental point of 23 view, the world is on a path to destruction in our 24 current setting, with environmental issues and with 25 climate change and society's inability to take care</p>	<p style="text-align: right;">Page 71</p> <p>1 A. He recorded that it takes him longer to 2 do things after the accident. He's not as 3 efficient. He feels frustrated more, impatient 4 more often than he was before the accident, he 5 reports. 6 Q. Anything else that you can recall? 7 A. I don't recall right now. 8 Q. In your opinion, is Mr. Meyer -- or 9 strike that. 10 In your opinion, has Mr. Meyer's 11 injuries, have they materially impaired his ability 12 to do his job as a lawyer? 13 A. From his report, I would say it's 14 created difficulty. We've never talked 15 specifically about whether or not he feels impaired 16 by it or whether it's just bothersome. 17 Q. And so my question though is what is 18 your opinion? 19 A. Based on his report, that it does have 20 some significant impairment to his job, for him to 21 do his job. 22 Q. Okay. 23 A. Grammar. Apologies. 24 Q. So let me just see if I understood what 25 you said. Is it correct that it is your opinion</p>
<p style="text-align: right;">Page 70</p> <p>1 of its own. And, again, that sense of justice is 2 very strong in him. 3 Q. Did you ever discuss with Mr. Meyer his 4 abilities to do his job before December of 2015? 5 A. Only when he recorded difficulty doing 6 things the way he used to do them, and that was 7 occasional. But, again, we mostly concentrated on 8 his emotional responses and not necessarily his 9 work practices. 10 Q. And what has Mr. Meyer told you about 11 how the injuries he suffered in December of 2015 12 affect him? 13 A. I think it would be in my first notes on 14 the 8th of June, 2018. 15 Q. So those are the things that we've 16 discussed already, the insomnia and depression? 17 A. Insomnia, depression, anxieties, 18 hypervigilance, some cognition difficulties, 19 searching for words, losing train of thought. 20 Q. I should have been more specific in my 21 question, apparently. 22 A. I'm sorry. 23 Q. No, no. What has Mr. Meyer told you, if 24 anything, about how the injuries he suffered in 25 December 2015 impact his ability to do his job?</p>	<p style="text-align: right;">Page 72</p> <p>1 that the injuries Mr. Meyer suffered in December of 2 2015 materially impair his ability to be a lawyer? 3 A. I don't know that. I cannot speculate 4 about that. I know that he has some difficulty 5 performing tasks after the accident. I don't know 6 whether it impairs him from being a lawyer. I 7 would have to do more psychological testing for 8 that. I mean, that would be -- that would be 9 something I would have a clinical psychologist look 10 at. 11 Q. Do you recommend that? 12 A. I don't know. I don't think it could 13 hurt. 14 Q. But do you recommend -- 15 A. He hasn't reported -- 16 Q. I'm sorry. Go ahead. 17 A. He hasn't reported any symptoms that I 18 felt severe enough to recommend that at this point. 19 Q. Do you agree that Mr. Meyer experiences 20 stress because of the field of law that he chose? 21 A. Yes. 22 Q. And, for example, he could have chosen a 23 field of law where he received a regular paycheck 24 or was working for someone else, correct? 25 A. He could have. He -- his passion is</p>

<p style="text-align: right;">Page 73</p> <p>1 what drives him. It's not financial, in my 2 opinion. 3 Q. I understand that. But as a result of 4 that passion, he may feel more financial stress, 5 right? 6 A. Yes. 7 Q. And he had that passion before December 8 2015 and after, correct? 9 A. I would say yes. 10 Q. And that passion that you're describing 11 is his feeling that he described to you that he 12 needs to save the world, correct? 13 A. Help save the world. I think he's -- he 14 doesn't feel like he's doing it alone. There's no 15 paranoia there or anything. 16 Q. Right. But my point is though, is that 17 his feeling or his passion that he needs to help 18 save the world is at least contributing to the 19 financial stress he is experiencing, right? 20 A. Yes. As someone who's worked in 21 nonprofits, it's a pretty familiar feeling. 22 Excuse me for a second. My allergies 23 are acting up. I apologize. 24 Q. No problem. I'm having the same issue. 25 So after August of 2000 -- August 10 of</p>	<p style="text-align: right;">Page 75</p> <p>1 to help with this lawsuit, correct? 2 A. March of 2020. 3 Q. Excuse me. I apologize if I misspoke. 4 March of 2020, Mr. Meyer asked you to help him with 5 this lawsuit, right? 6 A. He asked if I would -- if I would be 7 open to testifying and sharing my notes. And I 8 said if you -- if he wished it, I have no problem 9 with that. 10 Q. Okay. And since Mr. Meyer asked you to 11 assist in this lawsuit, he's been seeing you much 12 more often, hasn't he? 13 A. Yes. 14 Q. Let's back up to your treatment in 2019, 15 the two sessions you had with Mr. Meyer. What did 16 you discuss with Mr. Meyer on March 8 of 2019? 17 A. We talked about stress that he was 18 feeling, the fact that the twins were born so 19 quickly after the marriage, a lot sooner than they 20 had anticipated starting a family, the stress of 21 overload. And I gave him some recommendations 22 about meditation and breathing techniques and 23 mindfulness, time alone in helping him ground, 24 constantly reminding himself to slow down more. 25 Q. Anything else?</p>
<p style="text-align: right;">Page 74</p> <p>1 2018, you did not see Mr. Meyer again until March 2 of 2019; is that right? 3 A. After July -- yes. I'm just looking at 4 the notes. It was not a full meeting. I forgot to 5 put that in the notes. This was -- instead of the 6 usual 50-minute meeting, was a 30-minute meeting. 7 So it was shorter. It was a shorter session. 8 Q. The session on August 10 was shorter? 9 A. The session on -- okay, I'm confused. 10 What number are you looking at? That might help. 11 Q. Well, I'm trying to figure out, you did 12 not see Mr. Meyer between August 10 of 2018 and -- 13 A. Oh, yes. Sorry. I was in the wrong 14 place. Yes, I did not see him. 15 Q. Okay. And which session was shorter, 16 which session was 30 minutes instead of 50? 17 A. Session 11. 18 Q. That's the session on March 4 of 2020? 19 A. Yes, March of this year. 20 Q. Okay. So you saw Mr. Meyer a total of 21 seven times in 2018, right? 22 A. Yes. 23 Q. You saw him twice in 2019, correct? 24 A. Yes. 25 Q. And then in March of 2019, he asked you</p>	<p style="text-align: right;">Page 76</p> <p>1 A. I remember just letting him vent for a 2 while about all the frustrations that he was 3 having. I don't necessarily remember details. 4 But I often do this with patients just so they can 5 get it out, and then we can go back to discuss 6 things that we both find relevant. And that 7 mostly -- that mostly involved calming exercises 8 and ways to de-stress himself. 9 Q. Is it your understanding that neither 10 Mr. Meyer nor his wife had health insurance? 11 A. If they did, it was insurance I couldn't 12 take. I don't recall. We agreed to just pay in 13 cash. 14 Q. What does it mean when Mr. Meyer said 15 that -- said to you that "life is closing in too 16 fast"? 17 A. It was mostly centered around his 18 family, having -- suddenly being a husband 19 and a father of twins and trying to work, 20 balancing -- work/life balance. I think -- my 21 impression was that he was overwhelmed. 22 Q. By what? 23 A. By family and work, the situation of the 24 twins happening very quickly, unexpected 25 expenditures with two babies instead of one.</p>

<p style="text-align: right;">Page 77</p> <p>1 Dealing with child care, learning how to care for a 2 child, the stress of not really knowing how to do 3 that, mostly relying on his wife to take the lead 4 in the care of the children. 5 Q. And then Mr. Meyer called you on July 12 6 of 2019 for help dealing with the stress of 7 marriage; is that right? 8 A. Yes. He asked if he could come in, and 9 so I agreed. We noticed some new things, that he 10 was spending more time searching for words, losing 11 train of thought, which is generally a condition of 12 stress. In trauma, those symptoms can be 13 exacerbated by stress of any kind not related to 14 the trauma. And I mostly -- I mostly recommended 15 intensive therapy once a week, at least once a week 16 to deal with that, and maybe occupational therapy 17 if he needed to maybe get some -- some help in 18 addressing his work issues. I was simply there for 19 emotional issues, not physical or occupational 20 issues, necessarily. 21 Q. Has Mr. Meyer followed your 22 recommendation to have any occupational therapy? 23 A. I followed up once with him after that 24 and he said it was too expensive, just in passing. 25 Q. Do you know if he had insurance that</p>	<p style="text-align: right;">Page 79</p> <p>1 Mr. Meyer asked you to assist with this lawsuit, 2 right? 3 A. Correct. 4 Q. Okay. So in nearly two years before 5 Mr. Meyer asked you to assist in the lawsuit, you 6 saw him nine times, correct? 7 A. Yes. 8 Q. And then he asked you to assist in a 9 lawsuit, and in five months you've seen him 14 10 times, correct? 11 A. Yes. 12 Q. Does that tell you anything? 13 A. It tells me that he's serious and 14 interested in working on his issues. If you're 15 asking whether I think he's trying to appear 16 impaired by seeing me more often, I don't believe 17 so. Excuse me. 18 Q. When you first spoke with Mr. Meyer 19 about assisting with his lawsuit, what did you 20 discuss? 21 A. We discussed me providing treatment 22 notes and possibly testimony. I think that was the 23 day we had -- did the retainer agreement, which 24 allowed him to forego payment until the lawsuit was 25 settled. In my opinion, easing that financial</p>
<p style="text-align: right;">Page 78</p> <p>1 would pay for it -- 2 A. I do not. 3 Q. -- occupational therapy? You don't 4 know? 5 A. I don't know. 6 Q. Mr. Meyer first asked you to help with 7 his lawsuit in March of this year, of 2020, 8 correct? 9 A. Yes. He asked me to be available to 10 provide treatment notes and maybe testimony. 11 Q. And prior to him asking you to provide 12 testimony in this case, you had counseled Mr. Meyer 13 a total of nine times, correct? 14 A. Yes. 15 Q. And since Mr. Meyer -- 16 A. Well, ten -- ten times, sorry. 17 Q. Well, it was actually nine, wasn't it, 18 because you canceled on June 15 of 2018? 19 A. Thank you. You're right. 20 Q. Since Mr. Meyer asked you to assist with 21 this lawsuit, how many times have you counseled 22 him? 23 A. So that looks like 14. 24 Q. And it's been four months -- five 25 months, I guess, it is now? Five months since</p>	<p style="text-align: right;">Page 80</p> <p>1 burden was the reason that we were able to be more 2 engaged after. 3 Q. Okay. I just want to be clear about 4 something you just said. So from March 4 of 2020 5 through the present, you have not been charging 6 Mr. Meyer; is that correct? 7 A. I have not collected any money from 8 Mr. Meyer, no. 9 Q. And if he settles this lawsuit or 10 obtains a judgment, then you will get paid for all 11 of your time seeing Mr. Meyer, correct? 12 A. I believe so, yes. 13 Q. And if Mr. Meyer does not receive a 14 settlement or does not receive a judgment, you will 15 not be paid; is that correct? 16 A. We discussed having a payment plan that 17 could be stretched out over months in order to pay 18 me back. I would not expect a lump sum. 19 Q. Okay. So, Mr. Smith, you have a 20 financial interest in this lawsuit, don't you? 21 A. I will get paid whether or not this 22 lawsuit is settled or not. 23 Q. Well, you hope you will get paid, right? 24 A. I believe I will get paid. 25 Q. But if there's a settlement or judgment,</p>

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<p>1 you will be paid sooner, correct?</p> <p>2 A. I suppose. I'm not certain how that</p> <p>3 works, but I'll take your word for it.</p> <p>4 Q. And you would receive a lump sum instead</p> <p>5 of installment payments over time, right?</p> <p>6 A. If that's the agreement of the</p> <p>7 settlement, I suppose.</p> <p>8 Q. Do you see any problems with that,</p> <p>9 Mr. Smith?</p> <p>10 A. I, personally, do not. I have had</p> <p>11 clients in the past who have been unable to pay or</p> <p>12 who I've had to send to collections. I have had to</p> <p>13 write off some expenses of therapy for unpaid</p> <p>14 sessions. I've taken financial hits occasionally</p> <p>15 for that reason. It's part of the risk of doing</p> <p>16 this business. I'm much more interested in helping</p> <p>17 people than I am in having money.</p> <p>18 Q. Right. But before Mr. Meyer asked you</p> <p>19 to assist with this lawsuit, he was just paying you</p> <p>20 as he went each time he saw you, correct?</p> <p>21 A. Correct.</p> <p>22 Q. And then he asked you to assist with the</p> <p>23 lawsuit, and you agreed not to charge him anymore,</p> <p>24 correct?</p> <p>25 A. Correct. I also take several pro bono</p>	<p>1 that instead of moving from black -- into</p> <p>2 black-and-white thinking so often to be able to be</p> <p>3 more comfortable with doubt and being able to slow</p> <p>4 down. Like, he's a pretty quick thinker. Like,</p> <p>5 he -- his emotions tend to overwhelm him quickly</p> <p>6 at times. And I'm mostly helping him and his</p> <p>7 wife -- I'm helping him work on communications with</p> <p>8 his wife and family, not -- giving him some style</p> <p>9 type tips and techniques about how not to have a</p> <p>10 conversation or how not to be unclear. Spending a</p> <p>11 lot of time talking about his self identity, how he</p> <p>12 sees himself in the world, how he is looking at his</p> <p>13 place in the world, and his new identity -- his</p> <p>14 relatively new identity as a husband and father,</p> <p>15 dealing with things happening not in a way he would</p> <p>16 like, which is what we call resiliency, being able</p> <p>17 to come back from a disappointment or what might be</p> <p>18 seen as failure.</p> <p>19 My work with John in the last few months</p> <p>20 has mostly been about helping ground him in a</p> <p>21 reality that is much more subtle than he would like</p> <p>22 it to be.</p> <p>23 Q. What did that mean?</p> <p>24 A. Again, I would say it's trying to turn</p> <p>25 the world into color instead of just black and</p>
Page 82	Page 84
<p>1 patients every week. I'm seeing two -- three</p> <p>2 people right now who are not paying me.</p> <p>3 Q. Correct. But Mr. Meyer is not one of</p> <p>4 your pro bono clients, is he?</p> <p>5 A. I haven't had any payment yet, so I'm</p> <p>6 considering him a pro bono client until that</p> <p>7 happens.</p> <p>8 Q. Well, you have had payment for him. He</p> <p>9 paid you for the first nine sessions that you met</p> <p>10 with him, right?</p> <p>11 A. Yes. But then, I guess, in my mind, I</p> <p>12 changed his status to pro bono unless I get paid,</p> <p>13 and that's a risk I was willing to take.</p> <p>14 Q. And you're hoping that there will be</p> <p>15 some sort of judgment in his favor or settlement in</p> <p>16 his favor so that you will get paid, right?</p> <p>17 A. I would like to be paid, but I don't</p> <p>18 necessarily -- I'm not counting on it. It's not</p> <p>19 something I'm planning for, since it's up in the</p> <p>20 air.</p> <p>21 Q. What are the primary issues you are</p> <p>22 addressing in your meeting, your current meetings</p> <p>23 with Mr. Meyer?</p> <p>24 A. Excuse me. We're mostly exploring how</p> <p>25 he sees the world and how he can change some of</p>	<p>1 white. And a lot of times, when I'm working with</p> <p>2 people, it's important to manage expectations. And</p> <p>3 if people are having realistic expectations, they</p> <p>4 usually do very well. If people are having</p> <p>5 unrealistic expectations, they may not do so well.</p> <p>6 And John is learning a bit more how to be more</p> <p>7 subtle in that, especially in his work life and in</p> <p>8 his home life. Those are mostly the two things we</p> <p>9 discuss. And his emotional -- and his emotional</p> <p>10 state of anxiety or just feeling frustrated,</p> <p>11 sometimes angry.</p> <p>12 Q. Are you all done?</p> <p>13 A. Yes.</p> <p>14 Q. You said a number of different times now</p> <p>15 that Mr. Meyer sees the world in black and white</p> <p>16 and you're trying to get him to see the shades of</p> <p>17 gray and see the other colors, correct?</p> <p>18 A. Yes. I mean, he has some of that -- I</p> <p>19 wouldn't say he's completely inept in that ability,</p> <p>20 but it does cause him some significant distress,</p> <p>21 the black-and-white thinking.</p> <p>22 Q. And the black-and-white thinking is</p> <p>23 certainly something that Mr. Meyer had before</p> <p>24 December of 2015, right?</p> <p>25 A. I would assume so, but I do not know</p>

<p style="text-align: right;">Page 85</p> <p>1 that for sure.</p> <p>2 Q. Okay. So you just gave me a long list</p> <p>3 of things that you're seeing Mr. Meyer for now. I</p> <p>4 just want to see if I've -- you gave me a big list</p> <p>5 or a big narrative, and I want to see if I'm</p> <p>6 missing anything.</p> <p>7 You said you're discussing with him how</p> <p>8 he sees the world, right?</p> <p>9 A. Yes. Yes. And that's a pretty --</p> <p>10 Q. And you're dealing with -- go ahead.</p> <p>11 A. That's a common starting place that I</p> <p>12 have with patients. So, generally, I need to</p> <p>13 explore that in order to see what causes them pain,</p> <p>14 distress, anxiety, et cetera.</p> <p>15 Q. You're dealing with -- you're counseling</p> <p>16 Mr. Meyer on marriage issues now, correct?</p> <p>17 A. Correct.</p> <p>18 Q. And you're -- associated with that,</p> <p>19 you're dealing with him on communication skills,</p> <p>20 both with his wife and others, right?</p> <p>21 A. Yes. And philosophical skills about</p> <p>22 what -- what does this loving relationship mean?</p> <p>23 What does it -- how would you define it? And doing</p> <p>24 some psychoeducation about that also. Just basic</p> <p>25 relationship education.</p>	<p style="text-align: right;">Page 87</p> <p>1 all of those things preexisting issues that just</p> <p>2 existed as part of his personality prior to</p> <p>3 December of 2015?</p> <p>4 A. I would assume that, but I do not know</p> <p>5 that for certain. I've never asked that question.</p> <p>6 But in terms of personality, those things rarely</p> <p>7 change, but they can be exacerbated by trauma.</p> <p>8 Q. And do you have any evidence to suggest</p> <p>9 that those things have been exacerbated by trauma</p> <p>10 in this instance?</p> <p>11 A. I'm relying on the report of the</p> <p>12 patient, and the patient believes them to be</p> <p>13 exacerbated by trauma, and I see no reason to</p> <p>14 disagree.</p> <p>15 Q. So if you believe all of these</p> <p>16 preexisting issues that Mr. Meyer had have been</p> <p>17 exacerbated by the trauma, can you quantify how</p> <p>18 much they've been exacerbated, in your opinion?</p> <p>19 A. I would be very reluctant to do that.</p> <p>20 I -- again, it was not really the focus of our work</p> <p>21 together. I was dealing with what was presented</p> <p>22 and relying on the report of the client. And the</p> <p>23 things that were presented were worthy of being</p> <p>24 treated, so I treated them as best I could.</p> <p>25 Q. And are you now meeting with Mr. Meyer</p>
<p style="text-align: right;">Page 86</p> <p>1 Q. You're also dealing with Mr. Meyer about</p> <p>2 just slowing down, correct?</p> <p>3 A. Yes.</p> <p>4 Q. And then you said you're dealing with</p> <p>5 Mr. Meyer about how he sees himself in the world,</p> <p>6 both as a husband and a father, right?</p> <p>7 A. Yes, right.</p> <p>8 Q. And then you also mentioned counseling</p> <p>9 him on his seeing the world in black and white,</p> <p>10 right?</p> <p>11 A. Yes.</p> <p>12 Q. Is there anything -- if we were just</p> <p>13 creating a list, is there anything that I'm</p> <p>14 missing?</p> <p>15 A. Managing anxiety. Managing discomfort.</p> <p>16 Q. So aren't all of those things issues</p> <p>17 that Mr. Meyer had -- oh, sorry. It just blacked</p> <p>18 out. Can you see me?</p> <p>19 A. Yes.</p> <p>20 Q. Okay. I apologize. For some reason,</p> <p>21 you just blacked out and I couldn't see you there</p> <p>22 for a minute. Let me start my questioning again.</p> <p>23 All of the things that we just</p> <p>24 discussed, so all of the things that you are seeing</p> <p>25 Mr. Meyer for now or counseling him for now, aren't</p>	<p style="text-align: right;">Page 88</p> <p>1 on a weekly basis?</p> <p>2 A. Yes.</p> <p>3 Q. And do you plan to continue to do so</p> <p>4 through the end of this lawsuit, through the time</p> <p>5 of trial?</p> <p>6 A. I assume so.</p> <p>7 Q. Have you ever discussed with Mr. Meyer</p> <p>8 what he would do with the proceeds of this lawsuit</p> <p>9 if he prevails?</p> <p>10 A. I have not.</p> <p>11 Q. Is there anything else that you believe</p> <p>12 is important about your counseling of Mr. Meyer</p> <p>13 that we have not discussed yet today?</p> <p>14 A. I don't believe so.</p> <p>15 Q. And I assume that all of your notes that</p> <p>16 are contained in Exhibit 97 are true and accurate</p> <p>17 to the best of your ability, correct?</p> <p>18 A. Yes. I do dictate my notes, so there</p> <p>19 are some spelling errors and a couple of</p> <p>20 mispronounced words, it looks like. But other than</p> <p>21 that, yes.</p> <p>22 Q. Speaking of that, on note Number 22 from</p> <p>23 7/27 of this year, in the middle of that you</p> <p>24 mention Connie. Do you see that?</p> <p>25 A. Yes. That's an error. I'm trying to</p>

<p style="text-align: right;">Page 89</p> <p>1 reconstruct that sentence. I think that's an 2 erroneous word. 3 Q. Do you know what it's supposed to be? 4 A. I believe it is "and he seemed." 5 "Connie" probably was "and he." "And he." 6 Q. Okay. 7 A. And you can start the "and" after 8 "Connie." I should have proofed that. I 9 apologize. 10 Q. No problem. Sir, can you just give me 11 about five, maybe ten minutes at the most to go 12 over my notes just to see if there are any other 13 questions that I have for you? 14 A. Sure. I'm free all day. 15 Q. Okay. Well, I'm not going to take up 16 all day. Let me go over my notes and see if I have 17 anything else. Thank you very much. 18 MS. WALAS: Ian, can you forward me the 19 e-mails that were forwarded to Jennifer as well? 20 MR. McINTOSH: Yeah, of course. I haven't 21 seen them yet, but -- 22 MS. WALAS: Okay. 23 MR. McINTOSH: -- as soon as I see them, I 24 will forward them to you. 25 MS. WALAS: Okay. Perfect. Thank you.</p>	<p style="text-align: right;">Page 91</p> <p>1 Q. Did Mr. Meyer tell you that the 2 affidavit that he submitted to you, that the person 3 that submitted it later admitted that parts of it 4 were false? 5 A. No, he did not. 6 Q. Is that important to you? 7 A. Again, I -- it wasn't relevant to our 8 treatment and our work together. 9 Q. Right. That's what I'm trying to figure 10 out. I mean, numerous times today you told me the 11 details of the accident to -- tell me if I'm 12 summarizing this incorrectly. You told me that the 13 details of the accident are really not that 14 important to you so -- is that right? 15 A. Yes. The traumatic events from the 16 patient's point of view is what's important in 17 treatment. 18 Q. So why -- and if Mr. Meyer has already 19 told you about that, why is he then forwarding this 20 e-mail to you in November of 2019? 21 A. I do not remember. 22 Q. And then the next time you met with 23 Mr. Meyer, he asked you to assist with the lawsuit, 24 right? 25 A. Yes. And there are no other e-mails.</p>
<p style="text-align: right;">Page 90</p> <p>1 MR. McINTOSH: All right. Thank you. 2 (Whereupon, a brief 3 recess was taken.) 4 BY MR. McINTOSH: 5 Q. Mr. Smith, the e-mails -- you just 6 forwarded several e-mails from Mr. Meyer to us; is 7 that correct? 8 A. Yes. Some time ago, but yes. 9 Q. One of the e-mails you sent to us was an 10 e-mail that John Meyer sent to you -- I assume it's 11 to you. Is the e-mail dgsma@outlook.com; is that 12 you? 13 A. Yes. 14 Q. And Mr. Meyer submitted an e-mail to you 15 dated Friday, November 15, 2019, at 3:54 p.m., 16 correct? 17 A. November? Yes. 18 Q. What is your understanding of why 19 Mr. Meyer sent that e-mail to you? 20 A. With the affidavit attached? I don't 21 recall the reason. There have been maybe -- for 22 backgrounds. 23 Q. You had not seen Mr. Meyer in four 24 months in November of 2019, correct? 25 A. Yeah. I'm a little puzzled.</p>	<p style="text-align: right;">Page 92</p> <p>1 Let me just check one other thing. Yeah, I do not 2 recall. 3 Q. Was Mr. Meyer trying to shape your 4 belief about what happened in the ski accident? 5 A. I don't believe so. Every -- everything 6 here is -- this is all familiar. I don't see that 7 any of this would be new information. But I didn't 8 check it for veracity. I don't know if it's true 9 or not. 10 Q. If a client is trying to convince you 11 that what he is telling you about the underlying 12 incident or the underlying trauma is true, does 13 that cause you any concerns? 14 A. I'm not sure if I understand. Could you 15 please repeat that? 16 Q. Sure. If a client feels the need to 17 convince you that he is right about what happened 18 with the underlying incident, does that cause you 19 any concerns? 20 A. It would if it were obviously 21 delusional. Again, I mostly take my patients at 22 their word and treat the symptoms that I see in 23 front of me. 24 Q. Other than PTSD, how, in your opinion, 25 has the 2015 ski wreck impacted Mr. Meyer?</p>

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<p>1 A. I believe it's affected his physical 2 health, his range of motion. Psychologically, I 3 think it has made him prone to anxiety and 4 depression. I believe it has made him 5 hypervigilant. I think all of the things that I 6 noted in the intake notes of -- in Note Number 1 7 would imply again --</p> <p>8 Q. Okay.</p> <p>9 A. -- there's insomnia -- I mean, you know, 10 there's insomnia, irritable behavior that was 11 reported to be more extreme than normal.</p> <p>12 Q. Okay. So let me go through these. The 13 first thing you said was physical health, correct?</p> <p>14 A. Yes. He reported having surgery and not 15 being able to do the things that he used to do as 16 easily.</p> <p>17 Q. And you're not treating Mr. Meyer for 18 his physical health, are you?</p> <p>19 A. I am not.</p> <p>20 Q. And so how the ski accident affected him 21 physically is not within your area of expertise, is 22 it?</p> <p>23 A. It is if it affects someone's 24 psychological condition or mood or... For example, 25 physical illnesses, if someone is living with a</p>	<p>1 MR. McINTOSH: Marla, can you hear me?</p> <p>2 THE COURT REPORTER: I can hear you.</p> <p>3 THE WITNESS: Okay, you're back.</p> <p>4 BY MR. McINTOSH:</p> <p>5 Q. Okay. Marla, could you read that 6 question back to Mr. Smith?</p> <p>7 THE COURT REPORTER: Sure. 8 (Whereupon, the last 9 question was read back.)</p> <p>10 THE WITNESS: No.</p> <p>11 BY MR. McINTOSH:</p> <p>12 Q. So, for example, physically how 13 Mr. Meyer's range of motion was impacted, you don't 14 know if what he's telling you is true or false, 15 correct?</p> <p>16 A. Can you repeat the question? I'm having 17 screen freeze again. Apologies.</p> <p>18 MR. McINTOSH: I see that. We seem to be 19 having technical difficulties here. Marla, did you 20 get that question?</p> <p>21 THE COURT REPORTER: Yes.</p> <p>22 MR. McINTOSH: Could you read that back to 23 Mr. Smith, please?</p> <p>24 THE COURT REPORTER: Sure. 25 ///</p>
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<p>1 chronic illness, that can exacerbate feelings of 2 depression or anxiety, for example. So physical 3 health and mental health are very much intertwined. 4 I do a lot of body sensation work, but I'm not a 5 medical doctor.</p> <p>6 Q. Right. But, for example, if Mr. Meyer 7 told you that he hurt his knee in the 2015 ski 8 accident when, in fact, he hurt it in a separate 9 ski accident six months later, you're not qualified 10 to determine which accident really caused the knee 11 accident, are you?</p> <p>12 A. No.</p> <p>13 Q. So Mr. Meyer could be reporting symptoms 14 to you, telling you things that happens to him 15 physically that, according to him in the 2015 ski 16 accident, and you don't know whether those things 17 are true or not; is that right?</p> <p>18 A. You broke up on me. Could you repeat 19 the question? Sorry.</p> <p>20 Q. Yeah. No problem.</p> <p>21 A. My internet isn't so great today.</p> <p>22 Q. Okay. So Mr. Meyer could be telling you 23 that he was physically impacted by the 2015 ski 24 accident, and you don't know if what he's telling 25 you is true or false, do you?</p>	<p>1 (Whereupon, the last 2 question was read back.)</p> <p>3 THE WITNESS: Okay. So I heard nothing. I 4 apologize. One more time?</p> <p>5 THE COURT REPORTER: Sure.</p> <p>6 MR. McINTOSH: Could we -- Marla, would it 7 help if we like hung up and called back in or 8 clicked on the link again or something?</p> <p>9 THE COURT REPORTER: So my feeling is that 10 it's Mr. Smith's WiFi, just because he is the one 11 that's freezing up. I don't know if it's -- if 12 you've used this before. So if he would like to 13 reconnect, that might help. But I don't think the 14 other three of us need to.</p> <p>15 MR. McINTOSH: Okay. Mr Smith, just to give 16 us -- I really don't have very much at all. I just 17 have a few more questions that I want to ask, but 18 we seem to be having some serious problems here. 19 Could you try to hang up and then click on the link 20 again?</p> <p>21 Okay, I guess he heard that. No, maybe 22 not. Did you hear me, Mr. Smith?</p> <p>23 THE WITNESS: No, I got kicked off. So, 24 let's assume -- let's assume nothing. 25 MR. McINTOSH: Right. So could you hang up</p>

<p style="text-align: right;">Page 97</p> <p>1 or disconnect from this link and then try to</p> <p>2 connect again and see if it's any better?</p> <p>3 THE WITNESS: It seems to be working now</p> <p>4 fine.</p> <p>5 MR. McINTOSH: Okay.</p> <p>6 THE WITNESS: Okay, maybe not.</p> <p>7 MR. McINTOSH: Okay.</p> <p>8 THE WITNESS: Okay, I can leave and come</p> <p>9 back. Hold on.</p> <p>10 MR. McINTOSH: Let's try that.</p> <p>11 THE WITNESS: Okay.</p> <p>12 (Whereupon, there was a brief</p> <p>13 pause in the proceedings.)</p> <p>14 BY MR. McINTOSH:</p> <p>15 Q. Is this any better?</p> <p>16 A. Yeah. Should be fine.</p> <p>17 Q. Okay, let's try again.</p> <p>18 So, Mr. Smith, Mr. Meyer's issues about</p> <p>19 the alleged impact on his physical range of motion,</p> <p>20 you don't know whether those are true or false, do</p> <p>21 you?</p> <p>22 A. I have no proof.</p> <p>23 Q. Okay. And, in fact, that's</p> <p>24 not -- you're not a doctor that diagnoses those</p> <p>25 type of issues, are you?</p>	<p style="text-align: right;">Page 99</p> <p>1 Mr. Meyer had irritable behavior prior to this</p> <p>2 incident?</p> <p>3 A. I do not.</p> <p>4 Q. Mr. Smith, I believe that's all the</p> <p>5 questions I have. If you can please just send us</p> <p>6 that intake form; will you do that?</p> <p>7 A. I will do that. I think -- I'm pretty</p> <p>8 sure I can get it to you today.</p> <p>9 Q. Okay, thank you.</p> <p>10 A. Yes.</p> <p>11 MR. McINTOSH: So that's all the questions I</p> <p>12 have for right now.</p> <p>13 Brecan, did you have any?</p> <p>14 MS. WALAS: I'm going to just ask a few</p> <p>15 follow-up. It won't take very long.</p> <p>16 MR. McINTOSH: Good luck.</p> <p>17 MS. WALAS: All right.</p> <p>18</p> <p>19 EXAMINATION</p> <p>20 BY MS. WALAS:</p> <p>21 Q. Mr. Smith, you were asked about a</p> <p>22 November 15th e-mail; do you recall that?</p> <p>23 A. Yes.</p> <p>24 Q. And did you forward another e-mail dated</p> <p>25 November 5th, 2019?</p>
<p style="text-align: right;">Page 98</p> <p>1 A. No.</p> <p>2 Q. You said that, in your opinion, this ski</p> <p>3 wreck has caused Mr. Meyer anxiety, correct?</p> <p>4 A. Yes.</p> <p>5 Q. But you don't know how much anxiety he</p> <p>6 was experiencing before the ski wreck, do you?</p> <p>7 A. I do not.</p> <p>8 Q. You said that this has caused him</p> <p>9 depression, in your opinion, right?</p> <p>10 A. Yes.</p> <p>11 Q. And you don't know how much depression,</p> <p>12 if any, Mr. Meyer suffered before December of 2015?</p> <p>13 A. Other than his word, no.</p> <p>14 Q. Same thing regarding hypervigilance, you</p> <p>15 don't know if he was hypervigilant before December</p> <p>16 of 2015, correct?</p> <p>17 A. No proof. Just patient report, yes.</p> <p>18 Q. Okay. But you, for example, haven't</p> <p>19 reviewed his prior -- you could have reviewed his</p> <p>20 prior medical records, and you haven't done so,</p> <p>21 right?</p> <p>22 A. I didn't find it necessary. But yes, I</p> <p>23 could have.</p> <p>24 Q. Okay. Irritable behavior, that's</p> <p>25 another thing you mentioned. Do you know how often</p>	<p style="text-align: right;">Page 100</p> <p>1 A. I have to look. November -- could you</p> <p>2 repeat the date, please?</p> <p>3 Q. November 5th.</p> <p>4 A. I'm not seeing it. Maybe I'm</p> <p>5 technologically disadvantaged. Is it something</p> <p>6 that I sent to you earlier? I'm having a hard time</p> <p>7 with my e-mail.</p> <p>8 Q. Earlier today you forwarded two e-mails</p> <p>9 from Mr. Meyer to --</p> <p>10 A. Oh, yes, yes. Got it.</p> <p>11 Q. Okay. I'm just trying to confirm which</p> <p>12 e-mails were sent.</p> <p>13 A. 11/5 and 11/15 of 2019.</p> <p>14 Q. Okay.</p> <p>15 A. Two separate e-mails.</p> <p>16 Q. And the November 5th e-mail, what was</p> <p>17 that regarding?</p> <p>18 A. It was an affidavit as an expert for the</p> <p>19 court or as a professional.</p> <p>20 Q. Okay. So that would be the affidavit</p> <p>21 you provided with a copy of your treatment notes</p> <p>22 related to the November 5th e-mail?</p> <p>23 A. Yes.</p> <p>24 Q. Okay.</p> <p>25 MS. WALAS: Ian, do we want to go ahead and</p>

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<p style="text-align: right;">Page 101</p> <p>1 make these two e-mails we got forwarded Exhibit 98, 2 so they're in the record? 3 MR. McINTOSH: I don't think it's necessary. 4 But if you want to, have at it. 5 MS. WALAS: Okay. I don't think it's 6 necessary, either. I just didn't know, because we 7 discussed it, if you wanted to put it in the 8 record. 9 MR. McINTOSH: I'm fine. 10 MS. WALAS: Okay. 11 BY MS. WALAS: 12 Q. Also, following up -- is it common in 13 your profession to base a diagnosis off of a client 14 interview? 15 A. It is. 16 Q. Okay. And do you do that regularly with 17 your patients? 18 A. I do. And I would add for insurance 19 purposes, every patient has to have a diagnosis. 20 Q. And what is your current diagnosis of 21 John? 22 A. Post-traumatic stress disorder -- 23 Q. And -- sorry, go ahead. 24 A. No. All the other features are included 25 in the description in the DSM, which include</p>	<p style="text-align: right;">Page 103</p> <p>1 that question. 2 3 RE-EXAMINATION 4 BY MS. WALAS: 5 Q. Did you review and sign that affidavit? 6 A. I did. 7 Q. And did you agree with its contents? 8 A. I did. 9 MS. WALAS: I have nothing further. 10 MR. McINTOSH: Nothing. Thank you, 11 Mr. Smith. I appreciate your time. 12 THE WITNESS: Not at all. Have a good day. 13 MS. WALAS: Thank you everyone. 14 MR. McINTOSH: Bye. 15 16 (Whereupon, the taking of this 17 videoconference deposition was 18 concluded at 11:56 a.m.) 19 20 SIGNATURE RESERVED 21 22 23 * * * * * 24 25</p>
<p style="text-align: right;">Page 102</p> <p>1 anxiety and possible depression and the other 2 things that we've spoken about today. 3 Q. So the list that you went through with 4 Mr. McIntosh, do you relate all of that back to the 5 PTSD? 6 A. I would. It makes sense. I don't see 7 any reason to not. 8 MS. WALAS: Okay. Those are the only 9 follow-ups that I had. 10 THE WITNESS: Okay. 11 12 RE-EXAMINATION 13 BY MR. McINTOSH: 14 Q. Mr. Smith, just a couple questions. 15 First of all, the affidavit that we were just 16 talking about that was sent to you by e-mail dated 17 November 5, 2019, who prepared that affidavit? 18 A. I think Mr. Meyer did. 19 Q. Okay. You did not do it? 20 A. I did not. 21 MR. McINTOSH: I think that's all the 22 questions I have. Thank you for your time today. 23 I appreciate it. 24 THE WITNESS: Yeah. Good to see you. 25 MS. WALAS: I've got one follow-up, just to</p>	<p style="text-align: right;">Page 104</p> <p>1 DEPONENT'S CERTIFICATE 2 PAGE LINE CORRECTION 3 4 5 6 7 8 9 10 11 12 13 14 I, DAVID GREGORY SMITH, the deponent in 15 the foregoing deposition, DO HEREBY CERTIFY, that I 16 have read the foregoing -104- pages of typewritten 17 material and that the same is, with any corrections 18 thereon made in ink on the correction sheet and 19 signed by me, a full, true and correct transcript 20 of my oral deposition given at the time and place 21 hereinbefore mentioned. 22 DATED this _____ day of _____, 2020. 23 24 25 DAVID GREGORY SMITH</p>

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1 CERTIFICATE

2 STATE OF MONTANA)

3) ss.

4 COUNTY OF GALLATIN)

5 I, Marla Jeske, Court Reporter - Notary
6 Public, CSR, in and for the County of Gallatin,
7 State of Montana, do hereby certify:

8 That the witness in the foregoing
9 deposition was by me first duly sworn to testify
10 the truth, the whole truth and nothing but the
11 truth in the foregoing cause; that the deposition
12 was then taken before me at the time and place
13 herein named; that the deposition was reported by
14 me in shorthand and later transcribed into
15 typewriting under my direction, and the foregoing
16 pages contain a true record of the testimony of the
17 witness, all done to the best of my skill and
18 ability.

19 IN WITNESS WHEREOF, I have hereunto set
20 my hand and affixed my notarial seal this ____ day
21 of _____, 2020.

22 _____
23 Notary Public for the State of Montana
24 residing at: Bozeman
25 My commission expires: February 04, 2023

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